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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights situation in Palestine and other occupied Arab territories

Implementation of the recommendations contained in the report of the independent international fact-finding mission on the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem

Report of the United Nations High Commissioner for Human Rights

Summary

The present report, submitted pursuant to Human Rights Council resolution 28/26, provides information on the status of implementation of the recommendations contained in the report of the independent international fact-finding mission on the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem.

The report addresses continued Israeli settlement activity; settler violence and lack of accountability; issues related to Palestinian detainees, including children in Israeli custody; and business and human rights in relation to the settlements.

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I. Background

1. In its resolution 28/26 on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, the Human Rights Council requested the United Nations High Commissioner for Human Rights to present a report to the Council at its thirty-first session, specifying the status of implementation of the recommendations contained in the report of the independent international fact-finding mission on the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem (A/HRC/22/63).

2. The present report, submitted pursuant to resolution 28/26, contains information gathered by the Office of the United Nations High Commissioner for Human Rights (OHCHR). In it, reference is made to reports of the Secretary-General, the Special Rapporteur on the situation of human rights in Palestinian territories occupied since 1967 and the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories. Reference is also made to submissions received from Member States on the status of implementation of the recommendations contained in the report of the fact-finding mission.

3. The report covers the period between November 2014 and November 2015. It should be read in conjunction with the report of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan (A/HRC/31/43) and other recent reports of the Secretary-General and the High Commissioner on the situation of human rights in the Occupied Palestinian Territory.[1]

II. Overview of the recommendations of the fact-finding mission

4. In paragraphs 112-115 of its report, the fact-finding mission made recommendations, of which several were addressed to Israel. Recalling article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), the mission called upon the Government of Israel:

(a) To cease all settlement activities without preconditions;

(b) To immediately initiate a process of withdrawal of all settlers from the Occupied Palestinian Territory;

(c) To ensure adequate, effective and prompt remedy to all Palestinian victims for the harm suffered as a consequence of human rights violations resulting from settlements. In that regard, the fact-finding mission noted that, where necessary, steps should be taken to provide such remedy in concurrence with the representatives of the Palestinian people and the assistance of the international community;

(d) To put an end to the human rights violations linked to the presence of settlements;

(e) To ensure full accountability for all violations, including all acts of settler violence, in a non-discriminatory manner, and to put an end to the policy of impunity;

[1] A/HRC/31/40 and Add/1, A/70/351 and A/70/421.

(f) To put an end to arbitrary arrest and detention of Palestinians, especially children, and to observe the prohibition of the transfer of prisoners from the Occupied Palestinian Territory to the territory of Israel, in accordance with article 76 of the Fourth Geneva Convention.

5. In paragraph 116 of its report, the fact-finding mission called upon all Member States to comply with their obligations under international law and to assume their responsibilities in their relations with a State breaching peremptory norms of international law. The mission specifically urged Member States not to recognize the unlawful situation resulting from the violations by Israel.

6. Lastly, in paragraph 117 of its report, the fact-finding mission recommended that private companies must assess the human rights impact of their activities and take all necessary steps — including by terminating their business interests in the settlements — to ensure that they do not have an adverse impact on the human rights of the Palestinian people, in conformity with international law and the Guiding Principles on Business and Human Rights. In that regard, the mission called upon all Member States to take appropriate measures to ensure that business enterprises domiciled in their territory and/or under their jurisdiction, including those owned or controlled by them, that conduct activities in or related to the settlements, respect human rights throughout their operations. The mission recommended that the Working Group on and the issue of human rights and transnational corporations and other business enterprises be seized of the matter.

III. Status of implementation of the recommendations of the fact-finding mission

A. Israeli settlement activity

7. As noted in the report of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan submitted to the General Assembly at its seventieth session (A/70/351), a pause in settlement advancement in East Jerusalem, which started in November 2014, ended on 27 April 2015 when tenders were issued for 77 residential units in the settlements of Pisgat Ze'ev and Neve Ya'akov. Furthermore, settlement activities were under way early in May 2015, building on significant developments in relation to Ramat Shlomo, Har Homa and Givat Hamatos, reported previously, and significantly affecting the make-up of East Jerusalem (see A/HRC/28/44, paras. 7-10).

8. Between the beginning of 2015 and July of that year, tenders for 634 housing units were issued in the West Bank, including East Jerusalem. In July 2015, the Government of Israel approved plans to build 300 new homes in a settlement in the West Bank. On 29 July, the Secretary-General condemned the approval by the Prime Minister of Israel of the construction of 300 housing units in the Beit El settlement, near the Palestinian city of Ramallah, in the West Bank. The Secretary-General also condemned the planning and construction of nearly 500 housing units in a number of settlements in East Jerusalem. He reiterated that settlements are illegal under international law, an impediment to peace and cannot be reconciled with the stated intention of the Government of Israel to pursue a two-

State solution. He urged the Government to halt and reverse such decisions in the interest of peace and a just final status agreement.[2]

9. According to the Israeli non-governmental organization Yesh Din, since May 2011 approximately a quarter of the 100 unauthorized outposts in the West Bank have either been retroactively approved or are in the process of retroactive approval by the Civil Administration's Supreme Planning Committee. Following the elections in Israel, in March 2015 the new coalition Government committed to establishing an interministerial committee tasked with proposing a framework to promote the legalization of outposts (see A/70/351, para. 14).

10. As reported by the Secretary-General, the retroactive legalization of outposts is considered as another arm of settlement expansion, alongside the planning, tendering and construction process, and the support given to outposts at their outset, such as the security provided by Israel Defense Forces soldiers upon establishment of an outpost. This policy effectively rewards settlers for grabbing land in the West Bank in a process that "frequently involves violations of the rights of Palestinians". The lack of enforcement of the rule of law and the rewarding of illegal activity further encourage settlement expansion, creating additional obstacles to the objective of a negotiated two-State solution, and the right of Palestinians to self-determination, thereby undermining possibilities of peace (see A/70/351, para. 15).

11. During the reporting period, demolition of Palestinian property continued, accompanied by the forcible displacement of Palestinians, including Bedouins. Despite increased and concerted efforts and advocacy by the United Nations and the international community, the demolitions actually increased. On 18 August 2015, the Israeli Civil Administration carried out demolitions in a Palestinian Bedouin refugee community in Area C, near East Jerusalem. A total of 22 structures were demolished in four communities, located in and around the area of the planned E-1 settlement: Khan al-Ahmar Abu Falah, Wadi Sneysel, Bir Miskoob and Az Zayyem Bedouin. This led to the displacement of 78 Palestinians, including 49 children — mainly Palestine refugees. Many of those refugee families had been displaced four times in the last four years. The four communities are among 46 located in the central West Bank, which is included in Israeli plans to transfer Palestinian Bedouin communities to three designated sites.

12. On 19 August, following the demolitions, the United Nations Humanitarian Coordinator for the Occupied Palestinian Territory expressed grave concern, and called for an immediate freeze on demolitions in the West Bank.[3] He highlighted the strategic implications of those demolitions, which were occurring in parallel with settlement expansion. He also stressed that the relocation plan for those communities would effectively remove Palestinian presence in and around the planned E-1 settlement project, and warned that the project anticipated the construction of thousands of new Israeli housing units in the West Bank, on the outskirts of Jerusalem. The Humanitarian Coordinator recalled that the E-1 project had long been opposed by the international community as an obstacle to the realization of a two-State solution and a violation of international law.[4]

13. The Secretary-General has stated on several occasions that the implementation of the proposed "relocation" would amount to forcible transfers and forced evictions,

[2] "Secretary-General condemns Israeli approval of settlement building in West Bank, urges reversal of decision for sake of peace, 'just' final status agreement" (29 July 2015). During the reporting period, the Secretary-General deplored the advancement of settlement activities on several occasions, for instance on 15 May 2015 (see statement at www.un.org/sg/statements/index.asp?nid=8632).

[3] "UN officials call for an immediate demolitions freeze in the West Bank" (18 August 2015).

[4] Ibid. See also A/HRC/28/43, para. 11.

contravening the obligations of Israel as an occupying power under humanitarian and human rights law.[5]

14. According to the United Nations Relief and Works Agency for Palestine Refugees in the Near East, August 2015 saw the highest number of demolitions of Palestinian structures in a single month, since January 2013. During that month alone, Israeli authorities demolished 145 structures, including at least 54 residential units and 16 donor-funded structures. The overwhelming majority of the demolitions occurred in Area C, mainly affecting the already vulnerable Bedouin herding communities.

B. Recourse to remedy for Palestinians

15. In the 10 years since the International Court of Justice, in its advisory opinion dated 9 July 2004 (A/ES-10/273 and Corr.1), concluded that the construction of the wall in occupied territory and the settlements were illegal, the settler population in the West Bank, including East Jerusalem, has increased substantially (see A/69/348, para. 10). The Court noted that the wall had been traced in such a way as to include within that area the great majority of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem (see A/ES-10/273, para. 119).

16. By way of example, in August 2015 work on construction of the wall continued in Cremisan Valley, in Beit Jala village, despite protests by the Palestinian population. Reportedly, earth movers were uprooting olive trees to break the ground for the construction of the wall. The approval to take measures to construct the wall was granted on 8 July 2015 by the High Court. The wall, when fully constructed, will separate the West Bank city of Beit Jala from the settlement of Har Gilo and the village of Walaja. The planned route runs through the Cremisan Valley on land owned by 58 Christian Palestinian families, close to a monastery and its sister convent and school.

17. In 2007 the General Assembly decided, by its resolution ES-10/17, to establish the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory, which is mandated to record damage caused to all natural and legal persons concerned as a result of the construction of the wall by Israel in the Occupied Palestinian Territory, including in and around East Jerusalem.

18. The registration of damage is a technical, fact-finding process of listing or recording the fact and type of the damage caused as a result of the construction of the wall. It thus entails a detailed process that includes the submission of a statement setting out the alleged damage, eligibility for registration and the causality between the construction of the wall and the damage sustained. The Registry is not, however, a compensation commission or a claims-resolution facility, nor is it a judicial or quasi-judicial body. The act of registration of damage, as such, does not entail an evaluation or an assessment of the loss or damage (see A/ES-10/294, para. 1).

19. During the reporting period, the Registrar continued to collect, process and consider claim forms for inclusion in the Register in accordance with the rules and regulations governing the registration of claims. Since the Registry was launched in 2008, outreach efforts have covered 226 communities with a population of approximately 909,000 in the governorates of Jenin, Tubas, Tulkarem, Qalqiliya, Salfit, Ramallah, Hebron and Bethlehem, as well as in and around East Jerusalem.[6] As at 19 June 2015, more than 48,048

[5] United Nations Relief and Works Agency for Palestine Refugees in the Near East, "UN officials call for an immediate demolitions freeze" (19 August 2015).

[6] See A/ES-10/683 for details on work carried out between 20 June 2014 and 19 June 2015.

claims and over 800,000 supporting documents had been collected in the Occupied Palestinian Territory. At the time of writing, 18,845 of the collected claims had been considered by the Board of the Register and deemed valid for inclusion in the Register.[7]

C. Settler violence and lack of accountability

20. As reported by the Secretary-General, settler violence against Palestinians continued largely unchecked and without adequate protection or accountability on the part of the Israeli authorities (see A/70/351, para. 22).

21. According to data collected by the Office for the Coordination of Humanitarian Affairs, during the period between 1 January and 2 November 2015, 207 incidents of settler violence against Palestinians and/or Palestinian property occurred in the West Bank, including East Jerusalem,[8] compared with 278 incidents during the same period in 2014.[9] However, between 29 September and 26 October 2015, the number of incidents of settler violence increased significantly, with 54 cases in about one month.[10] The increase in violence coincided with the heightened tensions between Palestinians and Israeli security forces and an increased number of attacks against Israelis throughout the Occupied Palestinian Territory, particularly in East Jerusalem, since mid-September 2015.[11]

22. In October 2015, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories observed that continuing settlement expansion in the occupied West Bank and East Jerusalem was inextricably linked with a combination of restrictive planning policies for Palestinians, demolition orders on "illegal" Palestinian homes and structures built without permits and the oppressive and "coercive environment" fostered by settler violence. The Committee further noted that it was apparent from the testimonies it had received that the root cause of the escalating violence was the continuing policy of settlement expansion and the climate of impunity relating to the activities of the settlers (see A/70/406 and Corr.1, para. 11).

23. Lack of accountability for settler violence remains a major preoccupation. According to Yesh Din, most incidents of settler violence perpetrated against Palestinians and/or Palestinian property are poorly investigated and remain unpunished. During the period from 2005 to 2015, Yesh Din monitored 1,014 investigation files related to complaints about settler violence against Palestinians and their property in the West Bank. As of October 2015, an indictment had been issued in only 7.3 per cent of all cases concluded. The rest of the cases had been concluded without an indictment (91.6 per cent)

[7] See www.unrod.org.

[8] Office for the Coordination of Humanitarian Affairs, protection of civilians weekly report for 27 October-2 November 2015, available from www.ochaopt.org/poc27october-2november-2015.aspx.

[9] Office for the Coordination of Humanitarian Affairs, protection of civilians weekly report for 28 October-3 November 2014, available from www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2014_11_07_english.pdf.

[10] Office for the Coordination of Humanitarian Affairs, protection of civilians weekly reports for 29 September–5 October 2015, 6 October–12 October 2015, 13 October–19 October 2015 and 20 October–26 October 2015.

[11] Office for the Coordination of Humanitarian Affairs, "Casualties in the Occupied Palestinian Territories and Israel" (1-31 October 2015), available from https://www.ochaopt.org/documents/wb_casualties_october_2015.pdf.

or the files had been lost (11 files).[12] A total of 624 files were closed on the grounds that the offender was unknown, which indicates that the police failed to locate and identify suspected offenders even though there was evidence that a criminal offence had been committed, and 208 files were closed owing to insufficient evidence.[13]

24. One case illustrating the lack of accountability for offences against Palestinians committed by Israeli settlers relates to the attack on the home of the Dawabsha family, in the West Bank village of Duma, on 31 July 2015. In his report to General-Assembly, the Secretary-General referred to this case as the most egregious example of settler violence, which led to the murder of Ali Dawabsha, a Palestinian toddler, and severely injured members of his family. Both of Ali's parents died from wounds in the ensuing weeks. The Secretary-General also noted that the incident led to violent demonstrations, resulting in clashes between Palestinians in the West Bank and the Israel Defense Forces, as well as attacks on Israeli civilians by Palestinians (see A/70/354-S/2015/677, para 31).

25. On 22 October 2015, in his briefing to the Security Council, the Deputy Secretary-General noted that the shocking murders of the Dawabsha family and the lack of progress in arresting the perpetrators were a critical trigger of the escalation in violence in October 2015. He underscored that the incident reflected an increasing sense of critical exposure among Palestinians in the face of settler violence and reinforced their feeling of injustice.[14] He stressed that it was imperative for Israel to take action to empower Palestinian institutions to protect vulnerable communities, and stressed that Israel must vigorously address the perceived impunity for settler violence by expediting investigations and prosecutions of the Dawabsha family's killers.[15]

D. Palestinian detainees, including children in Israeli custody

26. As concluded by the fact-finding mission, the existence of the settlements has a heavy impact on a wide range of Palestinians' human rights, including their rights to equality, due process, fair trial, not to be arbitrarily detained and liberty (see A/HRC/22/63, para. 105).

27. Moreover, Palestinians are routinely subject to arbitrary arrest and detention, including administrative detention, mass arrests and incarceration. Most children are arrested at "friction points" such as villages near settlements or on roads that are used by the army or settlers and run by a Palestinian village. From the moment of arrest, Palestinians face multiple violations of their rights to liberty and security and to a fair trial through interrogation, arbitrary detention, abuse, trial and sentencing.

28. According to the Palestinian non-governmental organization Addameer, 6,700 Palestinians were in Israeli detention as at 9 November 2015. Of that total, 450 were held in administrative detention on security grounds, in other words without charge or trial, and 320 were children.[16] The total number of Palestinian prisoners and detainees held by Israel

[12] Yesh Din, "Law enforcement on Israeli civilians in the West Bank: Yesh Din monitoring update 2005-2015" (October 2015). Available from www.yesh-din.org/userfiles/Datasheet_English_Oct%202015.pdf.

[13] Ibid.

[14] "Deputy Secretary-General's briefing to the Security Council on the situation in the Middle East" (22 October 2015). Available from www.un.org/sg/dsg/statements/index.asp?nid=674.

[15] Ibid.

[16] See www.addameer.org/statistics. Some Palestinians are held in Israeli detention centres and the Ofer prison in the Occupied Palestinian Territory, while others are transferred to Israeli interrogation

was reportedly up by some 1,000 persons compared with September 2015.[17] During the escalation of tension and violence in the Occupied Palestinian Territory in October 2015, there was a spike in arrests of Palestinians. In October alone, the Israeli security forces arrested 1,195 Palestinians, including 177 children and 16 females.[18]

29. During the reporting period, several Palestinian detainees in Israeli detention went on hunger strike in protest against administrative detention and the treatment to which they were being subjected. In July 2015, the Knesset approved the "prevention of damage by hunger-strikers bill", which would allow the head of the Israel Prison Service to submit a motion to a district court and request permission to force-feed a prisoner on hunger strike. Should a judge rule that force-feeding is permitted in a particular case, medical personnel could feed persons on hunger strike against their will, and use force to do so (see A/70/406, para. 42).

30. Using threats, coercion, force or physical restraints to feed individuals who have opted to adopt the extreme measure of going on hunger strike in protest against their detention is, even if intended for their benefit, tantamount to cruel, inhuman and degrading treatment.[19] Prisoners have the right to resort to peaceful protests. The Secretary-General has consistently called for persons in administrative detention to be formally charged or released without delay (see A/HRC/28/43, para. 6). The use of administrative detention under international humanitarian law is allowed under exceptional circumstances and for short periods of time only.

31. In relation to the military detention of children, the working group on grave violations against children, which is led by the United Nations Children's Fund (UNICEF), has gathered 24 affidavits (sworn testimonies) of children aged between 14 and 17 years reporting ill-treatment by the Israel Defense Forces, the Israeli police, the Israel Border Police, the Israel Security Agency and the Israel Prison Service while in Israeli security detention in the West Bank, including East Jerusalem. Of the children who submitted affidavits, 16 boys reported being subjected to at least 10 different types of violations, including painful hand-ties, leg-ties, blindfolding, strip-searching, verbal abuse, physical violence, the absence of notification of their rights and the absence of a lawyer or parent during interrogation. Two children reported being held in solitary confinement for 6 and 14 days respectively, in Al-Jalame and Petah Tikva detention centres in Israel.

32. In addition, 17 of the 24 boys were transferred outside the West Bank to detention facilities inside Israel (Hasharon and Megiddo), in contravention of the Fourth Geneva Convention.[20] As reported by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, an estimated 60 per cent of Palestinian child detainees from the Occupied Palestinian Territory are held in prisons and detention facilities inside Israel, in violation of article 76 of the Fourth Geneva Convention (see A/HRC/28/78, para. 59).

33. Since publishing "Children in Israeli military detention: observations and recommendations" in March 2013, UNICEF has been engaged in a dialogue with the Israeli authorities on the implementation of its recommendations. UNICEF reported that, in

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centres and several prisons within Israel, in contravention of the Fourth Geneva Convention (see para.4 above).

[17] See http://www.addameer.org/sites/default/files/publications/october_2015_newsletter.pdf.

[18] Ibid.

[19] Office of the United Nations High Commissioner for Human Rights, "UN experts urge Israel to halt legalization of force-feeding of hunger-strikers in detention" (28 July 2015).

[20] See www.unicef.org/oPt/UNICEF_-_State_of_Palestine_-Second_quarter_of_2014_CAAC_bulletin_-_Final(1).pdf.

October 2013 the Central Command of the Israel Defense Forces announced that it would conduct a pilot test of summonses of children in lieu of night arrests. In early February 2014, the Israeli authorities started the pilot programme in Nablus and Hebron governorates, with cases now being reported throughout the West Bank. The launch of the summons pilot test is an important operational measure to halt the practice of night arrests and tackle some of the protection concerns that arise during the first 48 hours of arrest.[21]

E. Business and human rights in relation to the settlements

34. In its resolution 25/28, the Human Rights Council reiterated the call it had already made in its resolution 22/29 for the relevant United Nations bodies to take all necessary measures and actions within their mandates to ensure full respect for and compliance with the Guiding Principles on Business and Human Rights and other relevant international laws and standards, and to ensure the implementation of the United Nations "Protect, Respect and Remedy" Framework, which provides a global standard for upholding human rights in relation to business activities that are connected with Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem. The international fact-finding mission recommended that the Working Group on the issue of human rights and transnational corporations and other business enterprises remain seized of the matter of corporate engagement with settlements (see A/HRC/22/63, para. 117).

35. Actions taken by the Working Group were reported in the previous report of the High Commissioner (A/HRC/28/43 and Corr.1).

36. In its report to the General Assembly at its seventieth session, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories reported on information it received that several companies were profiteering, directly or indirectly, from a wide range of illegal Israeli practices. The Special Committee noted that such activities took an enormous toll on the daily lives of Palestinians and that private companies had allegedly played a major role in funding, facilitating and supporting the Israeli occupation (see A/70/406 and Corr.1, para. 18).

37. In that same report, the Special Committee grouped the activities of corporations involved in settlements into three broad categories (para. 19): (a) Israeli industry engaged in the construction of Israeli settlements, in production in settlements or in the provision of services to settlements; (b) control of the Palestinian population by constructing the wall and checkpoints, and the provision of private security or specialized equipment, such as surveillance and crowd control weapons; and (c) economic exploitation by using Palestinian workers, Palestinian natural resources or the Palestinian captive market. In addition, it referred to corporate activities of concern from a business and human rights perspective in the Occupied Palestinian Territory and the occupied Syrian Golan.

38. To exemplify the different categories, a number of case studies were presented to the Special Committee, for instance on financing the Israeli occupation, the exploitation of natural resources, corporate interdependency and the mislabelling of settlement products (see A/70/406 and Corr.1, paras. 20-27).

39. The Special Committee stressed that corporate actors needed to be held accountable for the impact of their activities on human rights. Both Governments and businesses played a role in and were responsible for protecting and respecting the human rights of the Palestinian people. Moreover, the Special Committee stressed that third countries too

[21] Ibid.

should be held responsible for ensuring corporations' respect for human rights and that they should cease to fund or enter into commercial transactions with organizations and bodies involved in settlements or the exploitation of natural resources in the occupied territories.

40. The Special Committee recommended that the General Assembly call on the State of Israel to inform Israeli and multinational corporations working in the occupied territories of their corporate social responsibility to act with heightened due diligence and of the international legal ramifications of business activities with negative human rights impacts, and to take appropriate measures to prevent, investigate, punish and provide redress for corporate abuse and/or exploitation of resources in the occupied territories through, inter alia, effective policies, legislation, regulations and adjudication.

IV. Submissions by Member States pursuant to Human Rights Council resolution 28/26

41. On 19 October 2015, OHCHR addressed notes verbales to all Permanent Missions to the United Nations Office and other international organizations in Geneva, requesting information on any steps their Governments had taken, envisaged taking or were otherwise aware of to implement the recommendations of the fact-finding mission, in particular those contained in paragraphs 116 and 117 thereof (see also paras. 5-6 of the present report).

42. On 19 October 2015, separate notes verbales were addressed to the Permanent Mission of Israel and the Permanent Observer Mission of the State of Palestine. OHCHR requested the Government of Israel to provide information on any steps that it had taken or envisaged taking to implement the recommendations of the fact-finding mission. It also requested the Government of the State of Palestine to present relevant information concerning the status of the same recommendations. At the time of the preparation of the present report, no information had been received from the Permanent Mission of Israel or the Permanent Observer Mission of the State of Palestine.

European Union

43. In a note verbale dated 1 December 2015, the Permanent Mission of the European Union to the United Nations Office and other international organizations in Geneva provided an update to its contribution of 24 November 2014, which was reflected in the report of the High Commissioner on the same subject matter, presented in March 2014 (A/HRC/25/43).

44. The European Union reaffirmed its commitment to its long-standing position not to recognize the sovereignty of Israel over territories occupied in 1967, namely, the West Bank, including East Jerusalem, the Gaza Strip and the Syrian Golan.

45. The European Union referred to the Council of Europe conclusions of 20 July 2015 on the Middle East peace process, in which the European Union recalled that settlements were illegal under international law and reiterated its strong opposition to the settlement policy of Israel and actions taken in that context, such as building the separation barrier beyond the 1967 line, demolitions and confiscation (including of assets provided through European Union-funded projects), evictions, forced transfers (including of Bedouins), illegal outposts, settler violence and restrictions of movement and access.

46. The European Union further stated that settlement activity in East Jerusalem seriously jeopardized the possibility of Jerusalem serving as the future capital of both States. The European Union reiterated that it would continue to closely monitor developments on the ground and their broader implications and that it remained ready to take further action in order to protect the viability of the two-State solution.

47. The European Union and its member States remained committed to ensuring continued, full and effective implementation of existing European Union legislation and bilateral agreements applicable to settlement products. Furthermore, it expressed its commitment to ensuring that — in line with international law — all agreements between the State of Israel and the European Union must unequivocally and explicitly indicate their inapplicability to the territories occupied by Israel in 1967.

48. The European Union noted that on 11 November 2015 the European Commission adopted an interpretative notice on the indication of origin of goods from the territories occupied by Israel since June 1967.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights situation in Palestine and other occupied Arab territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the Occupied Syrian Golan

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 28/26 on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan. In the report, developments concerning the establishment and expansion of Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, are highlighted. An update and analysis is also provided of the effects of related house demolitions, evictions, settlement expansion, settler violence, discriminatory zoning and planning policies on the economic, social and cultural rights of Palestinians. Lastly, in the report, the Secretary-General addresses issues related to Israeli settlements in the occupied Syrian Golan.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 28/26 and covers the period from 1 November 2014 to 31 October 2015.

2. The report is based on monitoring and other information-gathering activities conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and on information provided by other United Nations entities in the Occupied Palestinian Territory. It also contains information received from Israeli and Palestinian non-governmental organizations. It should be read in conjunction with previous reports of the Secretary-General on Israeli settlements to the Council and the General Assembly (in particular A/HRC/20/13, A/HRC/25/38, A/HRC/28/44, A/63/519, A/64/516, A/65/365, A/66/364, A/67/375, A/68/513 and A/69/348).

3. In the report, the Secretary-General provides an update on the Israeli authorities' policies and practices aimed at creating or expanding settlements in the West Bank, including East Jerusalem, and in the occupied Syrian Golan, including through retroactive legalization of unauthorized outposts under Israeli law, the declaration of "State land" and zoning and planning policies. He also examines settler violence and steps taken by the Israeli authorities to address impunity of Israeli settlers involved in violent attacks against Palestinians. Finally, he examines the impact of continued settlement expansion and related policies on Palestinian communities, through an analysis of developments in Palestinian Bedouin and herder communities at risk of displacement.

II. Legal background

4. An analysis of the applicable legal framework and the basis for the obligations of Israel in the Occupied Palestinian Territory and occupied Syrian Golan can be found in previous reports of the Secretary-General (see A/69/348, paras. 4-5, and A/HRC/25/38, paras. 4-5).

III. Settlements as a driver of violations of international human rights and humanitarian law

5. The presence and continued development of Israeli settlements lie at the root of a broad spectrum of human rights violations in the West Bank, including East Jerusalem. This has been documented extensively, including in previous reports of the Secretary-General, and by the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem (see A/HRC/22/63).

6. The settlements have resulted in the gradual fragmentation of the West Bank, restricted Palestinian access to natural resources in the Occupied Palestinian Territory and the subsequent impediment to the Palestinian people's right to self-determination (see A/HRC/22/63, A/70/351 and Council resolution 25/28).

7. Current Israeli practices related to the presence and expansion of settlements, which persisted during the period under review, similarly continue to have a profound impact on land and housing rights, the right to water and sanitation and freedom of movement, and result in restrictions on the right to education (see CCPR/CO/78/ISR, A/67/372 and A/HRC/28/55).

8. Successive reports by the Secretary-General have shown that the presence of settlements results in violations of the rights to life and to security of the person. The failure to address violent acts also renders individuals' right to a remedy illusory and promotes impunity.

IV. Settlement expansion

A. Overview

9. During the reporting period, Israeli authorities continued to expand settlements, to retroactively formalize unauthorized outposts in the West Bank, including East Jerusalem, and to approve plans for new settlements. Steps were also taken to enable the expansion of settlement-controlled areas through the declaration of "State land" and allocation of land in the West Bank for farming and construction purposes. As of the end of 2014, the total population in Israeli settlements in the West Bank and East Jerusalem was approximately 570,700. Overall, the settlement population in the Occupied Palestinian Territory has continued growing at a steady rate, with the latest available data showing an average growth rate of 14,600 people per year between 2002 and 2014.

10. The construction of settlements continued despite a slowdown in the planning and tendering of new housing units in settlements in the West Bank, including East Jerusalem. The planning of infrastructure related to settlements, such as roads, was not halted. These policies persisted despite the elections and the formation of a new Government on 14 May 2015. In the new Government, the pro-settlement Jewish Home party lost control of the Ministry of Housing and the Finance Committee chairmanship, both key for settlement activities. However, it gained other positions that are useful for promoting settlements, including in the Ministry of Justice and authority over the Settlements Division of the World Zionist Organization, a body attached to the Prime Minister's Office that channels significant funding to settlement activities. Additional concessions, including budgetary allocations to bolster local settlement authorities and measures to enable retroactive legalization, under Israeli law, of unauthorized outposts, were also included in the coalition agreement with the Jewish Home party.[1]

11. Sustained monitoring and pressure from the international community has had a mitigating effect on efforts by the Israeli authorities to implement the full range of settlement expansion initiatives presented by the Government of Israel during its first months in power. Diverging agendas within the governing coalition also served to rein in aspects of the pro-settlement agenda. Joint action by members of the Kulanu party, headed by Minister for Finance, Moshe Kahlon, together with Members of the Knesset from the ultraorthodox parties, prevented the inclusion of 61 West Bank settlements under a new system regulating income tax benefits for Israeli municipalities, although as part of a compromise, Hebron settlements remained on the list.[2] Those parties also played a role in blocking several pro-settlement legislative initiatives promoted by the Jewish Home party. Similarly, the Israeli High Court of Justice continued to play a role — albeit limited — in curbing aspects of settlement activity, particularly where Palestinian private land was concerned. Since the formation of his new Government, the Prime Minister, Benjamin

[1] Coalition agreement for the establishment of the thirty-fourth Government of the State of Israel, reached on 7 May 2015, between the Likud and Jewish Home parties.

[2] Moti Bossak and Zvi Zrahiya, "Government rejects plan to give 61 West Bank settlements tax benefits", *Haaretz*, 26 October 2015.

Netanyahu, has come under increasing pressure from settlement constituencies, including from his own party, to stop what they call a "de facto settlement freeze".

12. The escalation in violence in Israel and the Occupied Palestinian Territory, starting in September 2015, led to the hardening of the government position with regard to settlement expansion. A point of particular concern has been the response by the Government to political pressure from pro-settlement lawmakers and settler organizations to increase settlement construction in retaliation for acts of violence by Palestinians: namely, settlement expansion announcements by the Prime Minister regarding the retroactive legalization of settlement outposts around Itamar[3] and the promotion of particularly controversial plans for settlement expansion in the Muslim Quarter of the Old City and in the Ramat Shlomo settlement in East Jerusalem (detailed below).

13. Previous reports of the Secretary-General have detailed the range of practices resulting in the expansion of settlement control by the Israeli authorities over land in the Occupied Palestinian Territory (see A/69/348 paras. 33-35, and A/70/351, paras. 33-36). Construction of housing units is but one way of measuring such expansion. Indeed, the control of land through agriculture, the declaration of archaeological sites, national parks, infrastructure development, and the authorities' support for informal initiatives for settlement expansion all contribute to the growth and reinforcement of the presence of settlements in the Occupied Palestinian Territory. The Government of Israel has continued to support and promote the gradual takeover of land and resources through these methods.

B. Construction, tenders and plans

14. Israeli settlement construction and administrative steps enabling further expansion of settlements in the West Bank, including East Jerusalem, continued during the period under review. While the data available from the Israeli Central Bureau of Statistics points to a slight decrease in construction being started between 2013 and 2014,[4] the rate of construction for 2014 (2,705 construction projects started) remained above the annual average of 2,303 builds started per year over the previous 10-year period.

15. In October 2015, the Israeli non-governmental organization Peace Now reported on wide-ranging plans for West Bank settlement expansion and related settlement activity based on information obtained from the Ministry of Housing. From the disclosed documents, it appears that plans were promoted and partially implemented under previous Minister for Housing, Uri Ariel, from the Jewish Home party. The Prime Minister has subsequently publicly disavowed elements of these plans.[5] However, documents obtained by Peace Now detail funding by the Ministry of residential construction, as well as infrastructure and public structures, in various settlements between 2012 and 2015. This included funding for the construction of over 4,000 housing units, public structures (including the expansion of the Beit Romano and Beit Betar settlements in Hebron) and financial support (roughly US$ 460,000) disbursed in 2014 to municipal authorities in the West Bank towards public campaigns encouraging Israelis to move to settlements.

[3] On 1 October 2015, two Israeli citizens, Eitam and Na'ama Henkin, from the settlement of Neria, were killed in a drive-by shooting attack on the road between the settlements of Itamar and Elon Moreh in the West Bank.

[4] Information from Peace Now, based on Central Bureau of Statistics data, provided to OHCHR by e-mail dated 3 November 2015.

[5] Itamar Eichner, "Netanyahu: settlement construction plan led by Uri Ariel", *Ynet*, 30 December 2015.

C. Other means of settlement control over land

(a) National parks and archaeological sites

16. The Government of Israel has continued the practice of declaring and developing archaeological sites and parks as a means to expand control over land in the West Bank, including East Jerusalem. In several cases, the sites selected for development were located in close proximity to existing settlements, enabling either the expansion of lands under settlement control, or located in such a way that contiguous areas under settlement control could be made areas of strategic significance.[6] Israeli authorities have been directly involved in this practice, either through zoning and planning processes, funding the development of sites or granting leases and management privileges to private settler organizations.

17. In July 2015, the Jerusalem municipality posted signs in the East Jerusalem neighbourhood of Issawiya, stating that the area reserved for a national park at Mount Scopus had been put under a "vacant lot landscaping order", signifying the intention of municipality leaders to landscape and build facilities. The approval of the establishment of the Mount Scopus Slopes National Park in 2013, encompassing roughly 73 hectares on the eastern side of Mount Scopus, has been opposed by residents of the adjacent Issawiya and At-Tur neighbourhoods, on the grounds that it precludes the possibility of implementing much-needed urban development plans for those two areas.[7]

18. The Secretary-General and others have voiced concerns regarding the discriminatory urban planning regime in East Jerusalem (see A/HRC/25/38, paras. 11-14, and CERD/C/ISR/CO/14-16, para. 25), and the limitation of Palestinian development in the city as a result of the takeover of land for inclusion within national parks (A/70/351, para. 42).

19. On 7 June 2015, the Appeals Subcommittee of the National Planning Council approved plans for the development of the Kedem Compound in Silwan, promoted by the Elad settler organization to construct a major tourist site in the East Jerusalem neighbourhood of Silwan, some 20 metres from the walls of the Old City. Following objections submitted by Silwan residents and civil society organizations, the Subcommittee ruled to reduce the original plans by at least half.[8] These developments took place in the context of continued settlement expansion in the area. In three incidents between May and October 2015, Israeli settlers, under police escort, evicted six Palestinian families from their homes in the heart of the Palestinian neighbourhood of Silwan, following a ruling by an Israeli court in favour of the settlers who claimed ownership over the properties. In two additional incidents in August and September 2015, Israeli settlers, under police escort, moved into five residential buildings in Silwan that were previously vacated by their Palestinian residents. The buildings occupied are believed to have been sold by the

[6] See case study on Khirbet Silhoun (A/70/351, paras. 63-66); Kedem Compound, City of David Visitors Centre and Spring House tourist centre; and Tel Rumeida excavations and ancient site (see A/69/348, paras. 34-35). Following legal proceedings led by Hebron residents and the Israeli organizations Emekh Shaveh and Breaking the Silence, the Israeli Civil Administration decided to delay the opening of the Tel Rumeida "archaeological park" in Hebron, and rescinded an agreement with a private settler organization for the transfer of management rights of the site. According to archaeologists at Emek Shaveh, "the archaeological park is expected to increase the presence of Israelis in Hebron, add a national-historic site to the Jewish part of the city, and form a key tool in the settlers' drive to influence public opinion".

[7] The park had been in planning since 2005 and was approved despite the position of then Minister for Environmental Protection, Amir Peretz. See B'Tselem, "Mount Scopus Slopes National Park and the harm it causes to al-'Esawiya and a-Tur", 20 July 2015.

[8] Ir Amim Newsletter, 10 September 2015.

Palestinian owners. The Secretary-General has previously expressed concerns that the implementation of the plans for the Kedem Compound risks accelerating settlement expansion in Silwan, with repercussions for the human rights situation in the area (see A/70/351, para. 36).

20. On 10 August 2015, Israeli planning authorities in the West Bank approved plans for the development of a major archaeological and tourism site at Khirbet Seilun, on the lands of the Palestinian village of Qaryut. The site is located inside the boundaries of the Shilo settlement and is being promoted by Israeli authorities as "Tel Shiloh".[9] The planning body stopped short of providing full approval for the original master plan, but granted the Archaeology Staff Officer, within the Israeli Civil Administration the authority to approve individual structures on a case-by-case basis, including for tourism and commercial use. In a reversal of current practice, planning authorities required that Palestinian visitors be allowed entry without permits to the ancient site. At the time of writing, Palestinians still required permits to enter the area.[10]

(b) Expansion of "State land" boundaries

21. A further indicator of the expansion of land under settlement control has been evidenced in the activities of the Israeli Civil Administration's Task Force for the Survey of State Land Boundaries (the Blue Line task force). The Blue Line team is tasked with inspecting and defining the boundaries of land designated as State property, or so-called "State land" by Israeli authorities since 1970 (see A/HRC/22/63, para. 63). The declaration of State land constitutes a crucial step in the process of allocating land to settlements. According to the task force's operating guidelines, its activities are intended to settle claims of irregularities and remedy violations of the rights of landowners whose lands were unjustly seized.[11] The Civil Administration has argued before the High Court of Justice that land demarcations conducted by the Blue Line task force did not constitute formal declarations of State land, and were mere technical corrections of surveying mistakes. However, since 2009, the revisions conducted by the Blue Line task force have resulted in the expansion of State land boundaries by some 120,000 dunams (12,000 hectares).[12]

22. Until August 2015, the Blue Line task force re-drew State land boundaries without public announcements, thereby effectively preventing Palestinian landowners from laying claim to the surveyed land and granting no right of appeal. This practice was challenged before the Israeli High Court of Justice by Israeli human rights organizations and Palestinian landowners from the villages of Zawiya, Luban Al-Sharqiya and Qaryut, in the northern West Bank, following the expansion of State land boundaries by the Blue Line task force for the settlement of Eli in 2012.

23. Upon the request of the High Court of Justice, the Civil Administration issued revised guidelines on 11 August 2015, requiring prior notification of affected villages where any revisions of State land boundaries are intended, and granting a right of appeal within 45 days. Human rights organizations advocating for Palestinian landowners have expressed concern that the level of technical capacity and prohibitive costs required to

[9] See case study in the report of the Secretary-General (A/70/351, paras. 63-66).

[10] Emek Shaveh, press release, 12 August 2015.

[11] Revised guidelines of the Task Force for the Survey of State Land Boundaries, issued by the Head of the Israeli Civil Administration on 11 August 2015.

[12] Information from Dror Etkes (founder of Kerem Navot, an Israeli non-governmental organization that monitors settlement activity), based on Israel Defense Forces data, provided to OHCHR by e-mail dated 16 November 2015.

establish a claim against a revision of boundaries render the new guidelines meaningless for most affected landowners.

D. "Legalization" of unauthorized outposts

24. In 2014, the Secretary-General expressed concerns about steps taken by the Israeli authorities to retroactively formalize some 25 outposts in the West Bank (see A/70/251). During the period under review, the Israeli authorities pursued measures to retroactively legalize illegal outposts in the West Bank. These steps mostly follow the legal rationale and set of recommendations proposed by the government-appointed "Levy Committee" of 2012,[13] and are being promoted at the executive, military and legislative levels.

25. In the context of legal proceedings before the High Court of Justice, the Government of Israel declared its intentions to retroactively formalize a string of settlement outposts adjacent to the settlement of Shilo, in the southern Nablus governorate: Adei Ad, Esh Kodesh, Ahiya and Kidah. To that end, and as per the stated policy of Israel to retroactively legalize unauthorized settlement construction erected on so-called State land, the Blue Line task force has initiated the process of examining and redrawing State land boundaries in the area. By the Israeli authorities' own admission, these outposts are a hotbed for unlawful settlement activity and settler violence.[14] The human rights and humanitarian impact of the presence and expansion of the Shilo outposts on Palestinian communities has been examined in detail by the Secretary-General (see A/70/351).

26. On 21 October 2015, the Prime Minister approved a retroactive urban building plan for the settlement of Itamar and, on 29 October, he endorsed retroactive blueprints for three other settlements — Shvut Rachel, Sansana and Yaqir.[15]

27. In July 2015, the Prime Minister appointed a professional committee tasked with formulating recommendations for the retroactive "legalization" — under Israeli law — of settlement outposts.[16] This initiative came in an apparent response to pressure from settler groups following the rulings of the Israeli High Court of Justice ordering the evacuation of outposts and settlement neighbourhoods built on privately owned Palestinian land. On 21 July 2015, the Minister of Justice, Ayelet Shaked (of the Jewish Home party), stated: "It's time to clear the legal fog and let [Israeli] residents who live in [the West Bank], most of them in communities set up by various Israeli governments, stop worrying about a constant threat to the ownership of their homes".[17] At the time of writing, the committee had not submitted its recommendations.

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[13] In its July 2012 report, the "Levy Committee", established by the Government of Israel to investigate the legal status of the unauthorized settlements in the West Bank ("outposts"), recommended the legalization of the outposts. The report was not formally adopted by the Government of Israel (see A/HRC/22/63, annex I, p. 37).

[14] State's response dated 12 October 2015; High Court of Justice, case 8395/14, *Head of Turmusayya Village Council et al. v. Minister of Defense et al.* (available in Hebrew only).

[15] B'Tselem, "Retroactive 'laundering' of Itamar, Shvut Rachel, Sansana and Yaqir part of government policy to annex Palestinian land to State of Israel", 22 November 2015.

[16] The committee is tasked with the "formulation of an outline for regularizing structures and neighbourhoods in Jewish communities in [the West Bank] that were built with the involvement of the authorities". It is chaired by Cabinet Secretary, Avichai Mendelbit, and comprised of representatives of the Ministries of Agriculture and Defence. Information from a communication from the Prime Minister's Office, 19 July 2015.

[17] Revital Hovel, "New Israeli Panel Eyes Legalizing West Bank Outposts", *Haaretz*, 22 July 2015.

28. In October 2015, Likud Member of the Knesset, Yoav Kisch, proposed a bill aimed at enabling the "regulation" (retroactive legalization, under Israeli law) of settlement construction on private Palestinian land though the confiscation of land from their owners, in return for compensation.[18] According to his proposal, confiscated property would be allocated to the Settlement Division of the World Zionist Organization, which would subsequently allocate the land for the needs of retroactively "regulated" settlements. The proposals put forward in the bill circumvent the rulings of the Israeli High Court of Justice in a number of high-profile cases (see below), which ordered the demolition of illegal settlement construction on privately owned Palestinian land. A debate on the bill in the Ministerial Committee for Legislation was postponed at the last minute, apparently due to diplomatic pressure on the Government of Israel. In a comment published by the Knesset Channel website, Yoav Kisch stated that the bill had been suspended pending a review of its legality under international law. A similar bill had been rejected by the Knesset in 2012.

E. Court judgements and demolition of settlement structures

29. During the reporting period, the Israeli High Court of Justice issued rulings to uphold Palestinians' right to private property in the West Bank. This has been borne out in a number of high-profile rulings, including in the cases of Amona, Ofra, Beit El and Givat Zeev, as well as in the course of court proceedings regarding the construction on Qaryut lands in the settlement of Derekh Ha'Avot and the use of farmland by settlers in the Jordan Valley.

30. On 29 July 2015, Israeli security forces demolished two settlement apartment buildings, the "Dreinoff" buildings, which had been under construction on the outskirts of the settlement of Beit El, on privately owned land belonging to a resident of the adjacent Palestinian village of Dura al-Qara. The demolitions were carried out upon the orders of the Minister of Defence, pursuant to High Court judgments issued in September 2014 and June 2015, after lengthy legal proceedings and repeated attempts by the Israeli authorities and settlers to have the buildings retroactively approved.

31. Violent clashes erupted between hundreds of settlers and security forces in the days leading up to the scheduled demolition, as settler leaders and youth moved to occupy the buildings and confronted Israeli forces so as to prevent the demolition of the settlement structures. Unrest then spread to other areas in the West Bank. Developments in this case elicited strong reactions from factions of the Government of Israel, ultimately causing tensions within the governing coalition. Senior government officials of the Jewish Home party publically protested against the demolition, and Minister for Education, Naftali Bennett, addressed settlers and sympathizers gathered at the Dreinoff buildings, criticizing Ministry of Defence orders to deploy security forces to the site on the day before the scheduled demolition.[19] On the day of the demolitions, the Prime Minister approved the construction of 300 additional housing units in the Beit El settlement.[20]

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[18] Regulation Draft Law No. P/1973/20, 2015 (authors: Yoav Kisch, Bezalel Smotrich, David Bitan, Nava Boke, Israel Eichler, Eli Cohen, Machluf Miki Zohar, Avraham Naguisa, Robert Ilatov and Sharon Gal).

[19] Ministers Uri Ariel, Ze'ev Elkin and Yariv Levin released a joint statement: "We came here to express our support for the residents of Beit El, their desire to build up their community, and their protest against the unnecessary demolition." See Chaim Levinson, "Hundreds of Young Settlers Clash Violently With Police at Beit El", *Haaretz*, 28 July 2015.

[20] Stuart Winter and Judah Gross, "As two buildings torn down at Beit El, Netanyahu approves 300 more", *Times of Israel*, 29 July 2014.

32. The Secretary-General notes with concern the repeated requests by the State for delays of court-ordered demolition deadlines. Indeed, in the few cases of evictions of settlers and demolitions or residential settlement construction in recent years, Palestinian landowners have yet to regain full access to their plots. Palestinian claimants have seen few if any improvements in terms of access to land and the protection of their private property.

V. Settler violence and failure to maintain public order

A. Overview and trends

33. Settler violence is directly related to the continued existence and expansion of illegal settlements throughout the West Bank, including East Jerusalem, and has far-reaching implications for the rights of Palestinians (see A/HRC/28/44, paras. 39-46, and A/69/348, paras. 36-44).

34. During the period under review, the Office for the Coordination of Humanitarian Affairs recorded 253 incidents of settler-related violence, of which 101 resulted in injury to Palestinians, with the remainder causing damage to Palestinian property. This compares to 207 reported cases of casualties during the previous year, including five Palestinian fatalities (two killed by settlers and three killed by Israeli security forces) in settler-related incidents. The number of violent incidents related to settlements that resulted in injury to Israelis or to their property increased during the reporting period, to 123 incidents, of which 75 resulted in injury. By contrast, 96 incidents were reported during the previous 12-month period, including 69 injuries. The Secretary-General has repeatedly condemned all attacks against civilians and their property, which further fuel the cycle of violence.

35. In a case that garnered widespread international condemnation, in the early hours of 31 July 2015, the home of the Dawabsheh family, in the Palestinian village of Duma, was set on fire in an apparent attack by Israeli settlers. An 18-month-old child was killed in the attack and his parents later died of their wounds. A 4-year-old child of the couple remained hospitalized at the time of writing. On 31 July 2015, the United Nations Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General to the Palestinian Liberation Organization and the Palestinian Authority stated that he was outraged by the vicious arson attack by suspected Jewish extremists in the occupied West Bank village of Duma near Nablus, which killed Palestinian toddler, Ali, critically injured his mother and father and injured his 4-year-old sibling, and called for a full and prompt investigation to bring the perpetrators of this terrorist crime to justice.

36. While OHCHR monitoring of the case indicates that efforts have been made by Israeli law enforcement authorities to conduct an investigation into the incident, no indictments had been served at the time of writing, and the investigation was ongoing. On 10 September 2015, Israeli news media reported that "Israel's defense establishment knows who is responsible for the arson attack that killed three members of [the Dawabsheh family], but has chosen to prevent legal recourse in order to protect the identity of their sources". According to the same report, three Israelis were held in administrative detention in connection with the case.[21]

37. The climate of impunity enjoyed by violent settlers, combined with reports of an overall increase in the number of settler attacks inside Palestinian villages during the period

[21] Jonathan Lis and Chaim Levinson, "Israel Has Identified Duma Arson Suspects but Won't File Charges Yet, Says Defense Minister", *Haaretz*, 10 September 2015.

under review,[22] underscores the persistent climate of fear and insecurity experienced by Palestinians living in proximity to illegal settlements in the West Bank, including East Jerusalem.

38. A spike in settler violence was recorded in October 2015 in the context the wave of violence that erupted in the Occupied Palestinian Territory. An increase in incidents took place during the first days of October, following the killing of an Israeli couple by Palestinians in the West Bank on 1 October, and generally in the City and Governorate of Hebron where, according to data from the Office for the Coordination of Humanitarian Affairs, there were at least 30 settler attacks against Palestinians and Palestinian property. The attacks took the form of stone-throwing at Palestinian houses in the areas of the Wadi al-Hussein, Jabari and Al-Rajabi Quarters located in the vicinity of the settlement of Kiryat Arba. On 29 October, restrictions in the Israeli-controlled part of Hebron were further tightened when Israeli security forces closed off the area around the Tel Rumeida settlement, pursuant to a military closure order. While the onus of restrictions falls on Palestinians, Israeli settlers are allowed to move about freely throughout the area.[23]

39. Settler attacks and intimidation targeting volunteers and the representatives of international humanitarian organizations providing a protective presence and documenting human rights violations in the Israeli-controlled part of Hebron and in the southern Nablus governorate were reported during October 2015. The Secretary-General is concerned at these deliberate attacks against human rights defenders in the area. These attacks were compounded by restrictions on movement imposed by Israeli security forces, particularly at all checkpoints and on the road to Qurtuba School in Hebron, which links two settlements.

B. Israeli measures to address settler violence: accountability and prevention

40. In an effort to address the failure to protect and enforce the law against settlers, a specialized unit within the Israel Police West Bank District was established in early 2013. The Nationalistic Crimes Unit is charged with responding to ideologically motivated crimes committed by Israeli civilians, in coordination with the Israel Security Agency, the Israel Defense Forces and the Ministry of Justice. According to the Israeli Ministry of Justice, in 2014, the operationalization of the unit resulted in an increase of 64 per cent in the number of indictments filed against Israeli suspects.[24]

41. The Secretary-General welcomes the aforementioned steps taken by the Israeli authorities to address settler violence. However, cases handled by the Nationalistic Crimes Unit include criminal offences perpetrated against Israeli security forces and Israel Defense Forces property, as well as against Palestinians. According to data released by the Israeli police in January 2015, out of 83 indictments served by the Unit, only 25 per cent related to cases where the complainant was Palestinian.[25] A concern therefore remains that efforts by the Israeli authorities have not yet translated into significant improvements in the performance of law enforcement where the victims are Palestinian.

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[22] Yesh Din, "Data sheet: Law Enforcement on Israeli Civilians in the West Bank", October 2015.

[23] Protection Cluster, "Protection concerns and humanitarian impacts of settlement activity in Hebron city", April 2014.

[24] Response to Yesh Din report, "Mock Enforcement", from the Legal Counseling and Legislation Department (International Law) in the Ministry of Justice, 23 December 2014. See Yesh Din, "Mock Enforcement", May 2015, p. 148.

[25] Information released by the Israeli Police to Yesh Din following freedom of information procedures, provided to OHCHR in correspondence dated 9 December 2015.

42. Israeli authorities continue to make use of administrative measures against Israelis suspected of violent, ideologically motivated acts, in efforts to stave off such crimes. Steps included the administrative detention of three Israelis,[26] as well as the issuance of at least 36 administrative restraining orders, 16 of which were issued against minors. The latter mainly aimed at restricting movement of suspects in the West Bank.[27]

43. The use by Israel of administrative detention against Palestinians and Israelis alike has been condemned by the Secretary-General (see A/69/347, para. 29).[28] Where criminal charges cannot be brought, Israeli authorities should consider the use of alternative measures, such as restraining orders, and implement them in accordance with human rights obligations, including adequate judicial review and due process.

VI. Impact on Palestinian communities at risk of forcible transfer

(a) General overview

44. The Secretary-General voiced concerns at the deteriorating human rights and humanitarian situations facing Palestinian Bedouin and herder populations affected by home demolitions and Israeli plans for "relocation" of entire communities.[29]

45. The Secretary-General has previously noted the Israeli zoning and planning policy in the West Bank, which regulates the construction of housing and structures in Area C, is restrictive, discriminatory and incompatible with requirements under international law (see A/HRC/25/38, paras. 11-20). The planning system favours Israeli settlement interests over the needs of the protected population and makes it practically impossible for Palestinians living in Area C (approximately 300,000, according to the Office for the Coordination of Humanitarian Affairs) to obtain building permits. Severe restrictions on Palestinian planning in Area C further prevents the development of communities, which are effectively denied basic services and infrastructure under the current policy.

46. This impossibility of building safely creates enormous pressure on communities, particularly those targeted for relocation, as they know that within the current system there is no long-term protection from demolition and destruction of their property, creating a coercive environment that effectively drives communities off the land they have inhabited for decades.

47. According to the Office for the Coordination of Humanitarian Affairs, in a decrease compared with last year's reporting period, between 1 November 2014 and 31 October 2015, Israeli authorities demolished 554 Palestinian structures in the West Bank, including East Jerusalem, of which 137 were residential, inhabited structures. These demolitions resulted in the displacement of 712 Palestinians, and affected the livelihoods of communities throughout the West Bank.[30] During the previous year (1 November 2013 to 31 October 2014), the Office recorded demolitions of 628 Palestinian structures, which resulted in the displacement of 1,263 Palestinians.

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[26] Gili Cohen, "Ya'alon: Administrative Detention Used on Jewish Extremists to Prevent Future Attacks", *Haaretz*, 10 September 2015.

[27] Based on Israeli media reports between November 2014 and October 2015.

[28] See also 9 August 2015 Security Council briefing on the situation in the Middle East including the Palestinian question by Under-Secretary-General Jeffrey Feltman."

[29] See statement by the spokesperson for the Secretary-General, New York, 8 September 2015.

[30] Information from the Office for the Coordination of Humanitarian Affairs (unpublished), provided by correspondence dated 26 November 2015.

48. August 2015 saw the highest number of demolitions of Palestinian structures in a single month since June 2010, with some 140 Palestinian structures demolished and over 200 Palestinians displaced. The overwhelming majority of the demolitions were in Area C, mainly affecting already vulnerable Bedouin herding communities.

49. At the same time, activities by the Government of Israel aimed at relocation of Bedouins and herder communities progressed during the period under review. The planned relocation of the Bedouin and herder communities in Area C gives rise to serious concerns under international law. The Secretary-General reiterates concerns that the implementation of proposed relocations may amount to individual and mass forcible transfers. Except for temporary transfers for the security of the population or for imperative military reasons in the context of hostilities, forcible transfers violate human rights law and are prohibited under international humanitarian law. Under article 147 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, the unlawful transfer of protected persons constitutes a grave breach of its provisions, and potentially incurs the individual criminal responsibility of officials engaged in forcible transfers. In addition, the transfer of Palestinian Bedouin communities would contravene the obligations of Israel under international human rights law, particularly regarding the rights to freedom of residence and to adequate housing (see A/67/372, para. 37, and A/HRC/24/30, para. 29).

(b) Risk of forcible transfer of Susiya residents – South Hebron Hills

50. Susiya, a Palestinian community located in the Hebron governorate in the southern West Bank, is currently home to 55 Palestinian families, who have been living in this location for decades, on land they claim as their private property. The homes of half of these families and all the community's public structures are located in Area C, where Israel maintains full control over planning and zoning, and the remainder in Area B.[31] There are outstanding demolition orders for all the village's 170 structures located in Area C, which include 32 residential tents and shacks, 26 animal shelters and 66 family utility structures, 20 cisterns and 20 latrine units, 2 clinics, 1 school and 1 kindergarten, among others. Approximately half of these structures have been funded by international donors and provided as humanitarian assistance.

51. The nearby Israeli settlement of Susiya, established in 1983 in contravention of international law, has a population of nearly 1,000, some of whom live in an unauthorized outpost erected in 2002, on the original site of the Palestinian village of Susiya, on land that had been declared an archaeological site. By the end of the 1990s, the Israeli authorities had allocated over 1,500 dunams of land to the development of Susiya settlement (the "municipal boundaries"), an area that is over five times larger than its current built-up area. The Susiya settlement has been granted an outline plan that allows for the development of housing and infrastructure. While an adjacent settlement outpost was established without permits, the authorities have connected it to the water and electricity networks and refrained from enforcing pending demolition orders.

52. Owing to systematic settler violence and intimidation, Palestinian residents of Susiya village have limited or no access to over 2,000 dunams of their land, which constitute about two thirds of the community's farming and grazing area. This has a serious impact on their right to livelihood. In 2014 alone, some 800 olive trees and saplings owned

[31] In 1986, the Israeli authorities declared the main residential area of Susiya an archaeological site and evicted all of its residents. Most of those who relocated to what was later designated Area C, on plots of land adjacent to the original site of the village, were displaced again in the context of two waves of demolitions, in 2001 and in 2011, on the grounds of lack of building permits.

by Palestinian residents of Susiya were vandalized and damaged, allegedly by Israeli settlers.

53. The Israeli planning authorities have repeatedly rejected zoning and planning schemes submitted by the residents of the village of Susiya, which would allow the issuance of building permits on land that they own. On 4 May 2015, the Israeli High Court of Justice rejected the community's request for an interim injunction freezing demolitions in the village, thereby rendering 28 families vulnerable to imminent evictions and displacement.[32] In the course of legal proceedings before the High Court of Justice, the Israeli authorities further expressed their intention to "relocate" the community to a nearby site, adjacent to the Palestinian town of Yatta.

54. Over the summer of 2015, concerted efforts by the international community, including the United Nations and Member States, were successful in staving off Israeli demolition plans at the site. However, long-standing access restrictions to basic services and grazing land at Susiya, combined with systematic intimidation by Israeli settlers, has created a coercive environment, which raises concerns about forcible transfer in violation of international law.[33] In a High Court of Justice hearing on 3 August, both sides agreed to postpone the discussion in order to allow time for a negotiated solution. A mediation process between the residents and the Israeli authorities is currently ongoing.

(c) Bedouin relocation plan – central West Bank, including the Jerusalem periphery

55. During the reporting period, Israeli authorities advanced plans presented in April 2014 by Major-General Yoav Mordechai, the Coordinator of Government Activities in the Territories, for the "relocation" of some 46 Palestinian Bedouin communities in the Jerusalem periphery.[34] These plans foresee the removal of Palestinian communities in and around strategic areas earmarked for Israeli settlement infrastructure throughout the central part of the West Bank, including the planned E1 settlement project. The project has long been opposed by the international community as an obstacle to the realization of the two-State solution.[35]

56. The transfer plans of Israel place the Bedouin communities, currently residing in rural locations throughout the central West Bank in Area C, at risk of forcible transfer to three urbanized townships planned by the Israeli Civil Administration in Al-Jabal, Nweima and Fasayil. The relocation sites are being developed with the expressed purpose of "regulating Bedouins",[36] finding a "solution to the population residing in the area of the Adumim Bloc – western road No. 1"[37] and "settling permanently those Bedouin who are

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[32] Office for the Coordination of Humanitarian Affairs, "Susiya: a community at imminent risk of forced displacement", fact sheet, June 2015.

[33] Ibid.

[34] On 27 April 2014, Major-General Yoav Mordecahi formally presented these plans to the Subcommittee on Judea and Samaria of the Knesset Foreign Affairs and Defense Committee, chaired by Mordhay Yogev. The plans are outlined in a Powerpoint presentation entitled, "Infrastructure and Supervisory Units" referred to in the minutes of the Subcommittee meeting.

[35] Settlement construction plans in E1 would exacerbate the isolation of East Jerusalem from the rest of the West Bank and interrupt the territorial contiguity of the West Bank (see A/HRC/25/38).

[36] Powerpoint presentation of the Coordinator of Government Activities in the Territories, slide entitled, "Regulating Bedouins" from the presentation "COGAT takes steps to advance a number of plans to regulate the Bedouin population".

[37] Powerpoint presentation of the Coordinator of Government Activities in the Territories, slide entitled, "Programmes in the area of Ma'ale Adumim-Abu Dis – for a solution to the population residing in the area of the Adumim Bloc – western Road No. 1: Western Jahalin – programme operative,

there".[38] The implementation of these plans would hence entail the transfer of approximately 7,500 Palestinian Bedouin to the planned urban townships adjacent to Jericho, near the Jerusalem municipal landfill and in the Jordan valley.

57. The Bedouin, many of whom manage livestock as a traditional means of earning a livelihood, expressly oppose transfer to the proposed townships, as this would destroy their traditional pastoral economy, social fabric and rural way of life.[39] As an occupying Power, Israel has the duty to provide for the welfare of the protected population, and must take into account the Bedouins' rights, interests and needs.

58. The construction of one of the sites, Al-Jabal West, started in February 2015 as an expansion of the existing Al-Jabal township, and groundwork was completed in September 2015. On 6 September 2015, the Israeli Subcommittee for Planning and Licensing granted the Israeli Civil Administration approval, in principle, to issue building permits for 17 of 35 plots of land.[40] The Israeli Civil Administration has also advanced plans for the development of the Nweima township. In April 2015, Bedouin communities brought a legal challenge against the steps taken in the planning process.[41] At the time of writing this report, legal proceedings were still under way, and plans for a third township in Fasayil have not yet advanced.

59. Since April 2015, the Israeli Civil Administration has specifically targeted the Abu Nwar Bedouin community for transfer to Al-Jabal West. The land of Abu Nwar is located on the southern part of the E1 settlement construction project.[42] On 28 April, 2015, a government-appointed liaison officer informed the Abu Nwar community that they would be slated for full relocation and that 34 families should sign up to the Jabal site within one month. The mediator stressed that the Israeli Civil Administration would not permit the Abu Nwar community to remain in its current location. Overall, some 200 demolition orders have been issued for Abu Nwar since 1998, many of which remain allegedly enforceable at the discretion of the authorities. Only the orders issued in 2015 are currently protected by a temporary injunction order.[43]

60. In the context of the restrictive and discriminatory zoning and planning system, demolitions and eviction, or threats thereof, contribute to a coercive environment expected to leave little genuine choice to the affected communities but to leave, potentially, to at least one of three Israeli designated sites (see A/69/348, paras. 12-15). As previously stated by the Secretary-General (A/69/348, para. 16), Israeli "relocation" plans for Bedouin

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implementation tender soon. Afforested Jahalin – in process towards an environmental impact survey". The "population" referred to is the Bedouin communities.

[38] Minutes of the meeting of the Judea and Samaria Region Subcommittee of the Foreign Affairs and Defense Committee, the Nineteenth Knesset, 27 April, 2014. Benjamin Weil, Meeting Minutes, p. 52.

[39] In April 2014, several Bedouin families of the Jahalin tribe, who have been designated for relocation by the Israeli authorities, issued a "letter to the international community" in which they expressed their absolute rejection to the relocation plans of the Israeli Civil Administration.

[40] Information from Bimkom – Planners for Human Rights.

[41] The final objections hearing cannot be heard until there is a decision from the High Court of Justice on the petition, now pending a response from the Israeli Civil Administration, as this decision will impact the whole of the Nweima township plan.

[42] The outline plan for the E1 settlement construction project was approved by the Israeli Higher Planning Council in 1999. According to Bimkom – Planners for Human Rights, a detailed plan for the development of 1,500 settlement housing units on the 389 dunams of land where Abu Nwar currently sits is being developed.

[43] A court order prohibiting an action by a party to a lawsuit until there has been a trial or other court action.

communities in Area C would constitute forcible transfer in violation of international law, except where the affected persons provide their genuine and fully informed consent.

(d) Southern Jerusalem periphery

61. Continued expansion of the Gush Etzion settlement bloc, in the Bethlehem District, and the consequent access restrictions in the area, pose a risk of increased fragmentation and isolation of nine Palestinian villages from the Bethlehem urban centre, in addition to the existing separation from East Jerusalem.[44] This continuing consolidation of extensive Bethlehem areas into the Israeli "Greater Jerusalem" in the southern periphery expands deeply into the West Bank and cuts these areas off from East Jerusalem, undermining once again the territorial contiguity of the West Bank and, therefore, the viability of a Palestinian State.

62. As a result, the Palestinian villages of Al-Walaja, Battir and Wadi Fukin, in the Bethlehem Governorate, face fragmentation, including the seizure of land for potential settlement expansion or for the construction of the wall, restrictions of movement owing to the wall, and settler violence. In August 2014, the Israeli army expropriated large land areas from the Bethlehem Governorate, including the declaration of 400 hectares of "State land"[45] earmarked for the expansion of the Gva'ot settlement. For Wadi Fukin alone, the confiscated land represents between a third and a half of the village land, including land used for agricultural purposes, as well as land in the immediate vicinity of the local school. The expropriation is expected to have an immediate negative impact on livelihoods in the village and to complicate efforts to construct additional classrooms for the local student population. In addition, groundwork recently started for the construction of 218 settlement units in the area, further isolating Wadi Fukin village, whose only remaining access road is likely to be demolished to allow for this new extension.

63. Over the past few years, repeated settler violence incidents and environmental pollution have been documented by the United Nations Relief and Works Agency for Palestine Refugees in the Near East in the Wadi Fukin area on Palestinian land, as well as regular visits of armed settlers to the irrigation pools, intimidating farmers. Israeli authorities have failed to prevent or reduce settler attacks or to hold perpetrators accountable. In addition, on 11 June 2015 the community witnessed a new instance of bulldozing and the demolition of two wells.

VII. Settlements in the occupied Syrian Golan

64. As mentioned by the Secretary-General in his report on the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan (see A/HRC/28/44, para. 54), an estimated 21,000 Israeli settlers currently live in the occupied Syrian Golan in 33 settlements, heavily subsidized by Israel. These settlements enjoy a number of financial incentives, as well as a disproportionate allocation of water resources, which contributes to a higher agricultural yield for settlers. In October 2015, reports indicated that Israel intends to expand the size of its settlements over the next five

[44] In January 2015, the Israeli High Court removed petitions against the construction of the barrier in Battir from its caseload following a statement by the Israeli Government that the Barrier in these areas was no longer a priority.

[45] See statement by the Secretary-General on the matter, available from www.unmultimedia.org/radio/english/2014/09/un-chief-alarmed-by-israel-seizure-of-land-in-west-bank/#.VpardfnhBj0.

years by adding an additional 100,000 settlers to the region.[46] On the other hand, reports also refer to challenges faced by the Syrian population, which has grown from 7,000 in 1968 to approximately 25,000 people in 2015,[47] in the construction of new houses and infrastructure.[48]

65. Reportedly, major Israeli and international companies continue to exploit natural resources in the occupied Syrian Golan.[49] The Secretary-General reiterates that the Security Council, in its resolution 497 (1981), reaffirmed that the acquisition of territory by force is inadmissible, in accordance with the Charter of the United Nations, the principles of international law and relevant Security Council resolutions, and decided that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights was null and void and without international legal effect.

VIII. Conclusions and recommendations

66. **Israeli settlement activities remain at the core of many of the violations of human rights in the Occupied Palestinian Territory, including East Jerusalem. The Secretary-General reiterates that the settlement enterprise represents the most serious obstacle to a viable Palestinian State.**

67. **The Israeli authorities must halt and reverse the creation and expansion of settlements in the Occupied Palestinian Territory and in the occupied Syrian Golan. In addition, Israel must immediately cease using land control mechanisms aimed at expanding the area effectively occupied by settlements, such as the designation of firing zones, archaeological parks and agricultural land. Israel must also immediately cease the exploitation of natural resources from these territories.**

68. **Displacement and relocation to alternative residential areas, as a result of demolition orders, and a coercive environment could amount to individual and mass forcible transfer and forced evictions, contrary to the obligations of Israel under international humanitarian and human rights law.**

69. **The Government of Israel must urgently cease discriminatory and unlawful planning processes in the West Bank, including East Jerusalem, as they result in violations of Palestinians' rights, inter alia, to access water and services, including health and education.**

70. **The Secretary-General reiterates that the Israeli authorities must ensure full criminal accountability for perpetrators of acts of settler violence.**

71. **Moreover, the Government must revoke all laws and policies and halt practices that directly or indirectly lead to the forcible transfer of Bedouin and herder communities. Specifically, the authorities must cease the demolition of Palestinian homes and private property and refrain from any initiative to relocate Bedouin and other herder communities in Area C, which is in contravention of international law.**

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[46] *Mint Press*, "Israel takes advantage of Syrian civil war to expand illegal Golan Heights settlements", 13 October 2015.

[47] For details on exploitation on natural resources, see A/70/36139, para. 76.

[48] Al-Marsad, Arab Human Rights Center in Golan Heights, "Landmines in the Occupied Golan and Israel's obligation under international human rights and humanitarian law".

[49] For instance, see *Mint Press*, "Israel takes advantage of Syrian civil war".

72. **The Government of Israel must implement all relevant United Nations resolutions, including Security Council resolutions pertaining to territories occupied since 1967.**

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Human rights situation in Palestine and other occupied Arab territories

Human rights situation in the Occupied Palestinian Territory, including East Jerusalem

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 28/27 on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem. It presents the human rights situation through an analysis of how the occupation and associated measures restrict freedom of movement, and examines the impact of those restrictions on Palestinians' enjoyment of their economic, social and cultural rights.

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I. Introduction

1. The present report, which covers the period from 1 November 2014 to 31 October 2015, assesses the implementation of Human Rights Council resolution 28/27. It is based on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities in the Occupied Palestinian Territory. It also draws on information obtained from Israeli and Palestinian non-governmental organizations (NGOs) and from media sources.

2. In the present report, the human rights situation is viewed through the lens of the ongoing restrictions on the right to freedom of movement in the Occupied Palestinian Territory and their impact on the enjoyment of a wide range of other human rights. The report does not provide a comprehensive account of all human rights concerns in the Occupied Palestinian Territory. It should be read in conjunction with the reports of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan (A/70/351) and on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (A/70/421), as well as the reports of the Secretary-General (A/HRC/31/43) and the High Commissioner (A/HRC/31/40) before the Human Rights Council at its thirty-first session.

II. Legal background

3. International humanitarian law and international human rights law are applicable in the Occupied Palestinian Territory. The detailed analysis of the applicable legal framework, including the basis of the legal obligations of the duty bearers, presented in the report of the High Commissioner on the implementation of Council resolution S-9/1 (see A/HRC/12/37, paras. 5-9) and the 2014 report of the Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (see A/69/347, paras. 3-6), remains valid.

4. Freedom of movement is guaranteed under international human rights law[1] and international humanitarian law.[2] Israel, as the occupying Power, has an obligation to facilitate the freedom of movement of persons residing in the Occupied Palestinian Territory. Palestinian duty bearers too are obliged to respect and ensure freedom of movement.

5. While certain restrictions on freedom of movement are allowed under international law, including for reasons of security,[3] they must be strictly necessary for that purpose, proportionate and non-discriminatory.[4]

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[1] See the International Covenant on Civil and Political Rights, art. 12; and the Universal Declaration of Human Rights, art. 13.

[2] See the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), art. 27; and the 1958 commentary of the International Committee of the Red Cross on that same article.

[3] See the Fourth Geneva Convention, arts. 27 and 64 (2); the 1958 commentary of the International Committee of the Red Cross on that same article; and the Convention respecting the Laws and Customs of War on Land, annex, art. 43.

[4] See the advisory opinion of the International Court of Justice on the legal consequences of the construction of the wall in the Occupied Palestinian Territory, paras. 135-137.

6. Freedom of movement is also a prerequisite for the enjoyment of a broad range of civil, political, economic, social and cultural rights. The exercise of some rights, such as the rights to work, health and education, depends to a large extent on the ability to move freely and to choose one's residence. Thus, restrictions to freedom of movement can lead to limitations on a range of other human rights.[5]

7. Israel has positive obligations under both international humanitarian law and human rights law. Under international humanitarian law, the occupying Power retains positive obligations to ensure the welfare of the population, including the provision of medical supplies.[6] The principle of non-discrimination[7] is also relevant, especially in relation to the differential treatment of settlers and Palestinians living in the Occupied Palestinian Territory.

III. Restrictions on freedom of movement and their impact on human rights

A. Introduction

8. During the reporting period, the human rights situation in the Occupied Palestinian Territory remained difficult, and was characterized by violations of a range of rights. Long-standing restrictions on free movement between Gaza and the West Bank and within the West Bank exacerbated the situation.

9. In the Oslo Accords it is provided that, "without derogating from Israel's security powers and responsibilities", the movement of people and vehicles in the West Bank "will be free and normal, and shall not need to be effected through checkpoints or roadblocks". Furthermore, it is recognized that the West Bank and Gaza should be maintained as a "single territorial unit … respecting and preserving without obstacles, normal and smooth movement of people".

10. During the reporting period, movement restrictions remained in place, many of them in contradiction with previous agreements and international law. The restrictions have contributed to a fragmentation of the Occupied Palestinian Territory to a point where freedom of movement is severely impeded.

11. The current situation must be reversed. In his previous report, the Secretary-General noted that human rights violations by all duty bearers were driving the conflict in an ever-worsening cycle of violence (see A/HRC/28/45, para. 8). Movement restrictions undermine individuals' rights to health care, work, education and family life, and result in the rupture of social, economic, cultural and family ties. Cumulatively, these violations undermine the right of Palestinians to self-determination and to an adequate standard of living.

[5] Ibid., paras. 133-134.

[6] Fourth Geneva Convention.

[7] See the International Covenant on Economic, Social and Cultural Rights, art. 2 (1); and the International Covenant on Civil and Political Rights, arts. 2 (1) and 26.

B. Israeli restrictions on the freedom of movement of Palestinians

1. Administrative measures restricting freedom of movement

12. Palestinians' freedom of movement is restricted through a complex and multilayered system of administrative, bureaucratic and physical constraints that permeate almost all facets of everyday life.

13. Although the Ministry of the Interior of the State of Palestine issues identity cards for Palestinians on the basis of the Palestinian population registry, Israel retains the power to approve or reject all changes of address and permanent residency applications. In 2000, with the outbreak of the second intifada, Israel suspended updates to the register. Attempts to resolve the large backlog of applications between 2007 and 2009, and again in 2011,[8] had limited impact (see A/68/502, para. 9).

14. The permit regime allows Israeli authorities to limit and control Palestinians' movement in the Occupied Palestinian Territory beyond their immediate residential area. This permit regime dates back to the cancellation by Israel, during the first intifada, of the "general exit permit", which had allowed Palestinians to move freely between Gaza, the West Bank and Israel.[9] Since then, Palestinian residents of the Occupied Palestinian Territory are required to have individual permits to enter Israel and East Jerusalem. Following the outbreak of the second intifada in 2000, Israel further tightened movement restrictions, requiring Palestinians to obtain permits to cross between Gaza and the West Bank.[10] Permits are also required to enter and remain in large areas inside the West Bank, including the so-called "seam zone".[11]

15. The requirements for obtaining a permit are set out in protocols and procedures issued by the Israeli authorities, most of which have not been made public until recently. Following a series of freedom of information petitions filed by the Israeli NGO Gisha, several procedures have been posted on the website of the Coordination of Government Activities in the Territories Unit (COGAT) but a number remain unavailable to the public.[12] Moreover, of those published, only some have been translated into Arabic. As a result, both the procedures and the criteria by which applications are evaluated remain unclear to many applicants, most of whom read and understand Arabic.[13]

16. During the reporting period, COGAT eased requirements for selected groups, including by authorizing men over the age of 55 and women over the age of 50 from the West Bank to enter East Jerusalem or Israel without a permit.[14] In June, for the first time since the second intifada broke out in 2000, the Israeli authorities reportedly allowed some 100 Palestinian doctors from the West Bank to drive their cars into East Jerusalem and Israel.[15] Movement restrictions were also eased during Ramadan when exceptions for

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[8] See www.pmo.gov.il/English/MediaCenter/Events/Pages/eventblair040211.aspx.

[9] B'Tselem and HaMoked, *One Big Prison: Freedom of Movement to and from the Gaza Strip on the Eve of the Disengagement Plan*, 2005, p. 9.

[10] Ibid.

[11] B'Tselem, *Ground to a Halt: Denial of Palestinians' Freedom of Movement in the West Bank* (2007), pp. 24-25. The "seam zone" is the section of Palestinian land located between the wall and the 1949 armistice line that was declared "closed" following construction of the wall.

[12] Gisha, "Procedures and policies", 2015. Available from www.gisha.org/legal/procedures-and-protocols.

[13] Ibid.

[14] COGAT, "Status of permits for the entry into Israel of Palestinians, for overseas departures and the crossing points between Judea and Samaria and the Gaza Strip" (November 2015).

[15] Y-Net News, "Israel increases relief measures to Palestinians in the West Bank," June 14, 2015.

permit requirements were extended on Fridays to men over 40 and boys under 13 and to all women and girls, although some of those steps were revoked following unrest in July.[16]

17. The monthly quota of merchants allowed to leave Gaza during the reporting period was raised from 3,000 to 5,000 and the daily number of exits increased from 400 to 800.[17] The quota of Palestinian patients allowed to exit Gaza for medical treatment in Israel was raised from 80 to 120 per day. Israeli authorities also eased restrictions on the passage of Palestinian athletes from Gaza. Thus, in March 2015, 46 runners from Gaza were granted permits to enter the West Bank to take part in the annual Palestine Marathon.[18] During Ramadan, 500 Palestinians from Gaza were given a permit to travel to participate in prayers at Al-Aqsa Mosque, in Jerusalem.[19] While those measures are welcome, they are unlikely to lead, by themselves, to a long-lasting improvement as long as the permit regime remains in place.

18. Over the years, tens of thousands of Palestinians who have sought to enter Israel, Israeli settlements and the "seam zone", or to go abroad through the Allenby crossing to Jordan, have had their permits rescinded or their applications rejected after being blacklisted by the Israel Security Agency.[20] No reasons are given for the rejection, and restrictions are usually instituted without prior warning. As a result, many Palestinians only learn about the restrictions when they attempt to cross a checkpoint and are blocked.[21]

19. The Israeli NGO Machsom Watch assists blacklisted Palestinians in lodging appeals with the District Coordination Office.[22] In 59 per cent of the cases handled in 2014, the organization was able to remove individuals from the blacklist.[23] This high rate of successful challenges raises questions about the overall arbitrariness of the system.

20. Freedom of movement is a human right, yet the individual permit regime makes it a privilege to be granted or denied by Israeli authorities as an exception to the norm. While protection of national security may justify some restrictions in specific circumstances, the requirement that applicants meet narrowly defined criteria, such as visiting a sick relative or requiring hospital treatment, constitutes a fundamental breach of the International Covenant on Civil and Political Rights. The relation between rights and restrictions must not be reversed, and freedom of movement must not be made dependent on any particular purpose or reason.[24]

2. Restrictions on freedom of movement in the West Bank, including East Jerusalem

21. Movement by Palestinians within the West Bank is restricted by a system of checkpoint and permit requirements, as well as by the expansion of settlements and related

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[16] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", July 2015, p. 6.

[17] See http://gaza.ochaopt.org/2015/02/further-easing-of-criteria-and-quotas-for israeli-permits-to-exit-gaza/.

[18] Gisha, "Forty-six runners exited this morning from Gaza", March 2015.

[19] Agence France Presse, "Thousands pray at Jerusalem's Al-Aqsa for Ramadan", 19 June 2015.

[20] In addition, tens of thousands of Palestinians have been blacklisted by the police, usually punitively, after having entered Israel without a valid permit. Yet others are administratively blacklisted, for example for unpaid fines. Machsom Watch, "Year-end report, January-December 2014", January 2015, pp. 16-18.

[21] Ibid., p. 16.

[22] The District Coordination Office is the Israeli governing body that operates in the West Bank. It was established in order to carry out practical functions within the Occupied Palestinian Territories.

[23] Machsom Watch, "Year-end report, January-December 2014", January 2015, p. 17.

[24] See Human Rights Committee general comment No. 27 (1999) on freedom of movement, paras. 5 and 13.

infrastructure. The two main areas in the West Bank that most Palestinians cannot access without a permit are the area west of the wall, known as the "seam zone", and East Jerusalem.

Movement restrictions linked to settlements and other closed areas

22. A number of movement restrictions are linked to the presence of Israeli settlements in Area C and East Jerusalem. There are approximately 142 settlements in the West Bank, including East Jerusalem.[25] Some restrictions on Palestinians' freedom of movement have been justified by the Israeli authorities as a means of protecting settlers and facilitating their movement throughout the West Bank. They include restrictions on Palestinians' access to private land located in the vicinity of settlements and limitations on Palestinians' use of roads used by Israeli settlers (see A/67/375 and A/HRC/31/43).

23. Particularly severe restrictions are imposed on the movement of Palestinians who live in close proximity to Israeli settlers. In the H2 area of Hebron, where approximately 6,000 Palestinians live near settlements, the vehicular and, in some cases, pedestrian movement has been restricted for the past 15 years by approximately 95 physical obstacles, including 19 permanently staffed checkpoints.[26] Consequently, access to educational and health-care institutions has been severely impeded, many Palestinian shops, as well as the city's main vegetable and wholesale markets, which are located in the closed areas, have been shut down and thousands of Palestinians have been compelled to move out of their homes.[27]

24. Since October 2015, following a series of attacks and clashes, Palestinians' movement in H2 has been further restricted. The area of Tel Rumeida was declared a closed military zone on 29 October and two of the checkpoints leading to the area have since become accessible only to Palestinian residents registered in advance with Israeli authorities.[28]

Movement restrictions linked to the wall and the "seam zone"

25. The wall is a key obstacle to freedom of movement in the West Bank. The International Court of Justice, in its advisory opinion on the legal consequences of the construction of the wall in the Occupied Palestinian Territory, recognized as illegal those sections of the wall that depart from the Green Line. To date, however, approximately 64.2 per cent of the projected 712 km-long wall has been completed, 85 per cent of which runs through the West Bank.[29] The Secretary-General has described how the gate and permit regime, which regulates access to the "seam zone", impedes the rights of the approximately 11,000 Palestinians residing there from living normal lives and enjoying the right to work, family life and medical treatment (see A/68/502, para. 23).

26. During the reporting period, the High Court of Justice of Israel issued a decision permitting resumption of the construction of a section of the wall in the Wadi Cremisan

[25] B'Tselem, statistics on settlements and settler population for May 2015, available from www.btselem.org/settlements/statistics.

[26] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", November 2015, p. 4.

[27] Global Protection Cluster, "Protection concerns and humanitarian impacts of settlement activity in Hebron city", April 2014.

[28] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", November 2015, p. 4.

[29] Office of the United Nations Special Coordinator for the Middle East Peace Process, "Report to the Ad Hoc Liaison Committee", September 2015, para. 38.

area of Beit Jala, near Bethlehem. Preparation for construction began on 17 August 2015.[30] That section of the wall will cut the town off from 3,000 dunams of agricultural land belonging to 58 Palestinian families, which provides the community with an indispensable source of income.[31]

27. While Israeli authorities have committed to the construction of agricultural gates to facilitate farmers' access to their lands, access is expected to be limited.[32] Of the 85 agricultural gates built to facilitate Palestinians' access to agricultural land in the "seam zone", only nine are open daily.[33] As a result, many farmers have been forced to give up farming their land or have switched to lower-yielding and less-labour-intensive crops.

28. According to the military orders governing the West Bank, Israeli citizens require an Israel Defense Forces permit to enter Area A — the Palestinian urban centres under full Palestinian Authority control, covering 18 per cent of the West Bank.

Isolation of East Jerusalem from the rest of the West Bank

29. During the reporting period, Israeli authorities continued to implement restrictions isolating East Jerusalem from the rest of the West Bank and restricting movement within East Jerusalem. Palestinians residing in East Jerusalem are required to hold Israeli-issued ID cards granting bearers the status of "permanent resident". These ID cards can be revoked if the authorities determine that Jerusalem ceases to be the bearer's "centre of life" (see A/68/502, para. 28). Hence, Palestinians in East Jerusalem who wish to travel abroad for long periods of time, whether for employment or other reasons, risk losing their residency.

30. Palestinians from the West Bank and Gaza are required to obtain special permits to enter East Jerusalem and Israel, and can enter the city only through four established checkpoints.[34] The isolation of East Jerusalem, traditionally an important centre for Palestinian economic, cultural and social activity, has a serious impact on surrounding communities.

31. On 14 October 2015, following a series of attacks and clashes, the Israeli authorities imposed further movement restrictions on residents of neighbourhoods in East Jerusalem. As at 26 October 2015, there were 38 new obstacles, including 16 checkpoints, 20 roadblocks and one earth mound blocking the entry into and exit from the main Palestinian residential areas, curtailing the access of approximately 138,000 residents to work, school and medical treatment.[35] Some obstacles were being dismantled at the end of the reporting period.[36]

32. While the Government of Israel has a right to put in place necessary and proportionate security measures in response to specific security threats, systematically restricting the movement of thousands of Palestinians in the manner described above is prima facie disproportionate to the aim pursued.

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[30] Society of St. Yves, *The Last Nail in Bethlehem's Coffin: the Annexation Wall in Cremisan*, August 2015.

[31] B'Tselem, "Barrier to separate Beit Jala residents from their lands, laying groundwork for annexing settlement", 12 November 2015.

[32] Ibid.

[33] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", September 2015, p. 6.

[34] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", July 2015, p. 6.

[35] Office for the Coordination of Humanitarian Affairs, protection of civilians weekly report for 20-26 October 2015. Available from www.ochaopt.org/poc20october-26october-2015.aspx

[36] Ibid., weekly update, 17-23 November 2015.

Checkpoints

33. During the reporting period, there were 85 fixed checkpoints in the West Bank. Nine of those checkpoints were on the Green Line, while all others were located within the West Bank.[37] In addition, hundreds of "flying" checkpoints were erected each month on roads throughout the West Bank. Together with roadblocks, trenches and earth mounds, the checkpoints severely impede Palestinians' movement, including between main Palestinian cities in the West Bank.

34. Access through checkpoints is often accompanied by rigorous security checks, including vehicle inspections and bag searches, resulting in long delays. At Qalandia checkpoint — the main crossing point for West Bank Palestinians into East Jerusalem — it takes pedestrians up to 90 minutes to cross during peak times.[38] Long waiting times, uncertainties at the checkpoints and frequent clashes disrupt many aspects of Palestinians' daily life.

3. Restrictions on movement affecting Gaza

35. The ongoing blockade and permit regime restricts access by Gazan residents to the West Bank and Israel. Within Gaza, movement is restricted in areas along the fence with Israel and at sea, with the Israeli security forces maintaining a buffer zone. For a detailed update on movement restrictions in Gaza, see the 2015 report of the Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (A/70/421).

Restrictions on movement between Gaza and the West Bank

36. In accordance with the Oslo Accords, Israel opened a "safe passage" route in October 1999, allowing 12,000 residents of Gaza to travel to the West Bank each month. However, that route was closed in September 2000, following the outbreak of the second intifada. By March 2005, five months before the evacuation by Israel of the settlements in Gaza, travel to the West Bank from Gaza had declined by 98 per cent.[39] Movement of people was cited as "virtually impossible and expensive".[40]

37. After Hamas took over Gaza in 2007, a strict quota system was imposed. Obtaining permits became limited to specific categories of persons, such as individuals in need of emergency medical evacuations, medical referral patients, certain businessmen and humanitarian cases (see A/70/421, paras. 23-25).

38. During the reporting period, restrictions on movement in and out of Gaza remained in place. The easing of some measures (see para. 18 above) had a tangible effect, increasing the monthly average of exits of Palestinians to 13,800, up from a monthly average of 5,990 during 2014.[41] However, this represents only 2.8 per cent of the half a million exits recorded monthly prior to September 2000, before restrictions were tightened and when around 26,000 workers from Gaza were entering Israel on a daily basis.[42]

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[37] Ibid., *Humanitarian Atlas 2015*, p. 53.

[38] Ir Amim, *Displaced in Their Own City: the Impact of Israeli Policy in East Jerusalem on the Palestinian Neighbourhoods of the City Beyond the Separation Barrier*, June 2015, p. 48.

[39] B'Tselem and HaMoked, *One Big Prison*.

[40] Office for the Coordination of Humanitarian Affairs, "The agreement on movement and access: one year on", November 2006.

[41] Office for the Coordination of Humanitarian Affairs, "Erez crossing: movement of People into and out of Gaza", 2014-2015. See gaza.ochaopt.org.

[42] Gisha, "Separating land, separating people", June 2015, p. 12; and "Rafah crossing: who holds the

39. The effects of Israeli restrictions on freedom of movement have been exacerbated by the closure of Rafah crossing by the Egyptian authorities on 24 October 2014, following a suicide attack on Egyptian soldiers in the Sinai peninsula (see A/70/421, para. 29). During the reporting period, the crossing at Rafah remained closed except for on 37 partial opening days.[43] At the end of October 2015, an estimated 30,000 Palestinians registered as humanitarian cases were waiting to leave Gaza through Rafah.[44]

40. The blockade on Gaza remains a form of collective punishment and undermines civil, political economic, social and cultural rights (see A/70/421, para. 29).

Restrictions on movement within Gaza

41. Israeli authorities have continued to impose a buffer zone within Gaza on land and at sea, in the form of access-restricted areas. Restrictions are enforced through a range of mechanisms, including the use of live fire and the destruction, damage and confiscation of property, as well as arbitrary arrest and detention (see A/70/421, paras. 30-38).

42. During the reporting period,[45] according to the Global Protection Cluster three Palestinians, including one child, were shot dead and 82, including 17 children, were injured by Israeli security forces in land-based access-restricted areas. In addition, 54 fishermen, including four children, were detained and 20 were injured, including one child.

43. The enforcement measures used by the Israeli authorities against residents living and working in access-restricted areas significantly undermine the right of Palestinian fishermen and farmers to a livelihood, and have a devastating impact on the rights to life and to physical and mental health.

C. Impact of freedom of movement restrictions on other human rights

44. Restrictions on freedom of movement result in Palestinians' inability to enjoy a wide range of other human rights, particularly those related to economic, social and cultural rights.[46]

1. Right to education

45. Access to education has been most restricted among East Jerusalem communities beyond the wall, the H2 area of Hebron, the "seam zone" and in the vicinity of closed zones and settlements in Area C. A survey of 33 communities carried out in 2015 showed that almost one in five students in the West Bank must pass a checkpoint to reach school.[47] Body and bag searches are frequent, and schoolchildren and teachers are subject to regular harassment, including verbal intimidation, by Israeli soldiers.

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keys?", March 2009.

[43] Office for the Coordination of Humanitarian Affairs, protection of civilians weekly report for 27 October-2 November 2015. Available from www.ochaopt.org/poc27october-2november-2015.aspx.

[44] Ibid., "Gaza crossings' operations status: monthly update — October 2015".

[45] This excludes the period starting 9 October 2015, when 14 demonstrators were killed and hundreds were injured.

[46] See the advisory opinion of the International Court of Justice, para. 134. Civil and political rights are also affected. During the reporting period, OHCHR continued to monitor the case of four elected members of the Palestinian Legislative Council representing East Jerusalem who have been banned from entering their constituency, in violation of political participation rights (see A/67/372, paras. 39-40).

[47] Office for the Coordination of Humanitarian Affairs, *2016 Humanitarian Needs Overview: Occupied Palestinian Territory*, annex 1, p. 27. See www.ochaopt.org/documents/hno_december29_final.pdf.

46. In remote parts of Area C, many schoolchildren must walk 7-10 km to reach school owing to restrictions on movement, displacement and demolitions.[48] Oftentimes, the difficulties of the commute to school are exacerbated by harassment and attacks by Israeli settlers and soldiers. During the reporting period, the United Nations Children's Fund documented 247 cases of attacks on education, including physical assault, detention and checkpoint harassment and delays, affecting 32,055 children. The majority of incidents were documented in Area C, East Jerusalem and H2, where children go to school in close proximity to Israeli settlements.

Box 1

Case study: movement restrictions on school children in H2

Qurtuba School is situated in the old city of Hebron, in the H2 area. The journey to school requires students to cross a military checkpoint and walk past a settlement. Harassment, intimidation and violence from settlers, delays, bag and body searches, and abuse by soldiers are regular occurrences. During the past several years, international organizations have been providing protective presence to schools located in the area. Their presence has reduced checkpoint delays and settler violence.

On 29 October 2015, pursuant to military orders, the whole of Tel Rumeida area and Shuhada Street were declared a closed military zone, with entry into the area limited to residents recorded on soldiers' checklist. In addition, individuals or entities providing a protective presence have since been barred from accompanying children to Qurtuba School. Since then, an increase in settler harassment against students has been reported, with some settlers pointing guns and driving past children at high speed. Delays and harassment by soldiers at the checkpoint have also reportedly increased.

The situation has reinforced a sense of fear among children and teachers in an already coercive and dangerous environment. The school's headmaster noted that since the denial of a protective presence, "even teachers do not feel comfortable coming to school, due to fear of both settlers and soldiers". More than one fifth of the students did not attend school during the last days of October. According to OHCHR, the incidents have affected the well-being of students, some of whom have reportedly suffered nightmares and bedwetting.

47. The negative effects of restrictions on access to education are compounded by the limitations imposed on access to Palestinian schools by the Ministry of Education of the State of Palestine. According to the Ministry, in the "seam zone", for example, the permit regime restricts access so that the Ministry cannot effectively deliver school textbooks and furniture. In Gaza, owing to restrictions on imports, educational institutions face difficulties in acquiring teaching and learning materials, particularly for subjects like chemistry and engineering, which require items included on the "dual-use items" list.[49] These various limitations affect the availability and quality of education.

48. Movement restrictions also affect higher education. In the West Bank, Palestinian students' access to universities is impeded by checkpoints and road closures, and students can face long daily commutes if they wish to study in a university outside their immediate residential area. Al-Quds University has reported that, during the past three years, at least 38 of its students have been forced to postpone their final exams after being delayed at checkpoints. Restrictions on higher education are even more pronounced in Gaza. In 1998,

[48] Ibid.

[49] United Nations Educational, Scientific and Cultural Organization, *Rapid Assessment of Higher Education Institutions in Gaza: Data Analysis Report*, January 2015.

approximately 1,000 Gazan students were studying in the West Bank.[50] Since the outbreak of the second intifada in 2000, sweeping bans on travel to the West Bank have been imposed on university students from Gaza, and all requests to travel for study purposes have since been rejected, even in the absence of security concerns.[51]

49. On 16 February 2015, COGAT announced that the Government of Israel would introduce measures to ease travel restrictions, including by granting exit permits to 50 Gazan students wishing to study in the West Bank. However, the authorities retracted the decision on 18 February 2015, citing a "clerical error".[52]

50. The impact of the ban is exacerbated by the obstacles that Gazan students face in accessing education outside the Occupied Palestinian Territory. In December 2014, Israel announced that it would allow up to 140 students from Gaza to study abroad, subject to a maximum quota of 30 per week.[53] During the reporting period, 161 students left through Erez crossing, but hundreds more remained unable to reach their academic institutions, risking losing their scholarships owing to delays and the denial of permits.

51. The inability of students to access higher education in other parts of the Occupied Palestinian Territory or abroad affects the free choice of a university course, with a commensurate impact on future careers and livelihoods. For example, in Gaza, many important programmes, including medical engineering and doctoral programmes in chemistry, are not available.[54]

2. Right to health

52. The availability, accessibility and quality of health services in the Occupied Palestinian Territory are impaired by the restricted movement of patients, doctors and other medical staff.

53. Owing to the limited capacity in hospitals run by the Ministry of Health of the State of Palestine, patients requiring specialized treatment or surgery are often referred for treatment outside of their usual area of residence. In Gaza, reliance on referrals for adequate medical care is particularly acute (see A/70/421, para. 24). There are only four oncologists to treat the 12,600 cancer patients in Gaza (cancer is the second leading cause of death in Palestine). In addition, the World Health Organization (WHO) notes that only two cardiac surgeons are available, as a result of which some 70-80 patients per month need to be treated outside Gaza.

54. Most Palestinians from the West Bank or Gaza requiring health care in East Jerusalem, Israel or abroad must apply for an Israeli-issued permit. While Israel imposes no age or quota restrictions on the process of obtaining a health permit,[55] 15-30 per cent of the applications are delayed or never approved, and the application process is reportedly slow and complicated.[56]

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[50] Gisha, "Student travel between Gaza and the West Bank 101", September 2012.

[51] The Israeli army considers people aged between 16 and 35, and students in this age group in particular, as posing a general threat because of their "risk profile". Gisha, "Legal framework: higher education — rights and obligations under international and Israeli law", May 2010.

[52] Gisha, "Israel will not permit students from Gaza to study in the West Bank", February 2015.

[53] ; 37 orphans stayed home", December 2014.

[54] Ibid., "The impact of the separation between the Gaza Strip and the West Bank on higher education", May 2010.

[55] COGAT, "Status of permits", p. 21.

[56] Physicians for Human Rights, *Divide and Conquer: Inequality and Health*, January 2015, p. 76.

55. According to the General Authority for Civil Affairs of the State of Palestine, of the 173,835 applications that were received through West Bank district offices by patients and patient-companions during the first 11 months of 2015, 18 per cent were reportedly either delayed or denied.

56. WHO estimates that at least 1,500 patients travel from Gaza to the West Bank and Israel each month to receive specialized medical treatment. The approval rates dropped significantly during the last months of the reporting period, from around 80 per cent in the first eight months down to 69.85 per cent in October 2015. This represented the lowest approval rate since October 2009, with the exception of the period of escalation in 2014. As at 8 October 2015, the Ministry of Health in Gaza reported that 1,180 patients had been waiting for medical treatment outside of Gaza since the beginning of 2015.

57. Over the past three years, the number of applications for patient permits by Palestinians from Gaza nearly doubled, from around 1,000 per month in early 2013 to around 2,000 between May and September 2015.[57] This increase occurred during a period in which patients' access to medical care in Egypt through the Rafah crossing became increasingly restricted.[58]

58. Patients whose applications for medical permits for urgent and specialized care are rejected or delayed have no choice but to repeat the lengthy application process, or to accept less specialized and inadequate care. This delay can place patients, particularly those in need of urgent care, at serious risk of further damage to their health or even death.

59. For those who receive a permit to cross, Israeli security forces can unpredictably deny access to patients, or can detain patients for interrogation or arrest on a charge.[59] Four patients and their companions were thus arrested by Israeli security forces at Erez during the reporting period.[60]

Box 2

Case study: movement restrictions on patients from Gaza

Medical patients in Gaza frequently experience denial or delay of care owing to the permit regime and the system of referrals.

OHCHR monitored the case of Haytham Mohamad Ghazi Shurrab, aged 22, who fell ill during the escalation of hostilities in Gaza in 2014. Following several visits to hospitals in Gaza, Mr. Shurrab was referred to a health facility in Cairo, where he was diagnosed with cancer and began treatment. Mr. Shurrab returned to Gaza in January 2015. By April, it became clear that the treatment was not working. He received a permit to attend a hospital in Tel Aviv for a scan, returning to Gaza after one day. Following the results of the scan, his treatment was adjusted but had to be stopped in June 2015 owing to swelling in his abdomen. Mr. Shurrab was referred to Al-Naja hospital in Nablus but after two weeks he received a rejection letter indicating that the type of treatment he needed was not available there.

[57] WHO, monthly report for September 2015. Available from www.emro.who.int.

[58] Ibid.

[59] WHO, "Report of a field assessment of health conditions in the Occupied Palestinian Territory", April 2015.

[60] WHO, monthly reports covering the period November 2014-September 2015.

Concerned about further delay in care, Mr. Shurrab's father appealed directly to the President of the State of Palestine, Mahmoud Abbas, asking that his son be referred to an Israeli hospital where the necessary treatment was available. Mr. Shurrab received a referral from the Ministry of Health in July 2015. He obtained an appointment for 5 August 2015 at a hospital in Tel Aviv and applied for a permit. On 4 August, he was informed that his exit permit was still under security review. He consequently missed his appointment and a new appointment was set for 9 September 2015. Mr. Shurrab died at the end of August 2015. His father was informed by the Civil Affairs Committee on 8 September that the permit had been granted.

60. Access to treatment is also impeded by physical restrictions on movement, including checkpoints. The checkpoints and roadblocks controlling entry to and movement within East Jerusalem since 14 October 2015 have restricted access to the six Palestinian hospitals located there, which provide a range of specialized treatment unavailable elsewhere in the West Bank and Gaza. The closures have prevented staff from getting to work and delayed and prevented patients' access to hospital treatment.[61] OHCHR monitored the case of a 65-year-old Palestinian woman with respiratory problems who died on the way to hospital on 19 October. Police had closed the road leading to the hospital, and further delays at a checkpoint hampered her access to life-saving medical care.

61. Movement restrictions compromise the quality of treatment available in health centres. Al-Quds University, in the Abu Dis district of East Jerusalem, hosts one of two medical schools in the West Bank. Clinical training for Al-Quds University students takes place primarily at Palestinian hospitals in East Jerusalem. The construction of the wall in Abu Dis separated the medical faculty from the rest of East Jerusalem. Every year, about 10 per cent of students from Al-Quds University are refused entry to East Jerusalem by the Israeli Civil Administration.[62] These restrictions limit training opportunities for medical students and staff and therefore affect the quality of medical care.

3. Right to work

62. Restrictions on movement adversely affect the right of Palestinians to work and to maintain an adequate standard of living.

63. In the West Bank, physical barriers and the permit regime particularly affect the agricultural sector, which has traditionally been the main source of employment and income for Palestinians in the West Bank. The restrictions imposed on Palestinians' access to their land in the "seam zone" and in the vicinity of settlements prevent farmers from regularly farming their lands, resulting in a drop in crop productivity and value. For example, the yield of olive trees in the zone is 40-60 per cent less than that of olive trees on the West Bank side of the wall.[63]

64. Restrictions on the movement of goods and people also affect Palestinian trade. All goods moving from the West Bank through, to and from Israel, must undergo physical inspection and commercial controls. According to the World Bank, in 2013 it took approximately 23 days to export goods from the West Bank and 38 days to import them. By

[61] Statement of Augusta Victoria Hospital on behalf of the East Jerusalem Hospital Network, 20 October 2015.

[62] Physicians for Human Rights, *Divide and Conquer*, p. 76.

[63] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin", February 2014, p. 9.

way of comparison, imports and exports took on average 10 days for Israeli traders.[64] Such restrictions have a severe impact on the competitiveness of Palestinian firms, thus limiting employment in the Palestinian private sector.

65. Although still subject to severe restrictions, the situation in Gaza has improved. Since November 2014, Israel has begun allowing a limited quantity of goods to be sold to the West Bank and Israel, including agricultural produce, textiles, iron works and furniture.[65] This easing has allowed the entry of 908 truckloads during the first 10 months of 2015 compared to 228 in 2014.[66] However, the current rates remain at around 15 per cent of pre-blockade levels.[67] Moreover, restrictions on imports to Gaza of items classified as "dual-use" have weakened Palestinian productive sectors, especially in the metal,[68] engineering, agriculture, food and pharmaceutical industries.[69] In April 2015, wooden boards thicker than 5 cm and wider than 20-25 cm were added to the dual-use list, and their import to Gaza was restricted.[70] On 3 August 2015, wooden boards thicker than 1 cm were included.[71] These new restrictions on wood imports have affected Gazan furniture factories and businesses, which have been forced to cut the number of staff and working hours.[72]

Palestinian workers in Israel and in settlements

66. Palestinian workers from the Occupied Palestinian Territory have long sought work opportunities inside Israel. Before 1993, some 115,000 Palestinians — one third of the workforce — worked in Israel, and unemployment was at 5 per cent.[73] Restrictions on trade and the movement of people have had a long-lasting, damaging effect on the Palestinian economy, resulting in high unemployment and aid dependency. While unemployment in the reporting period saw a slight decline compared to 2014, one quarter of the Palestinian labour force remains unemployed. In Gaza, the unemployment rate was 42 per cent.[74] High unemployment rates and economic stagnation affect the standard of living. Poverty in the Occupied Palestinian Territory during 2014 reached 25 per cent, with rates in Gaza at 39 per cent.[75] This situation has increased dependency on work in Israel, despite restrictions.

67. By September 2015, 57,450 Palestinians from the West Bank held permits to work in Israel, which, according to COGAT, is the highest number since the permit system was

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[64] World Bank, *West Bank and Gaza Investment Climate Assessment: Fragmentation and Uncertainty*, 2014, pp. 32-39.

[65] Gisha, "For the first time since the closure: a truckload of cucumbers left" (6 November 2014); and "Israel will allow marketing of ironworks, furniture and textile from Gaza in Israel", 21 September 2015.**Error! Hyperlink reference not valid.**

[66] Office for the Coordination of Humanitarian Affairs, online Gaza crossings database.

[67] World Bank, *Economic Monitoring Report to the Ad Hoc Liaison Committee*, 30 September 2015.

[68] According to the Palestinian Federation of Industries in Gaza, 90 per cent of metal materials are listed as dual-use and banned from entry into Israel, affecting 1,200 factories. See also *Al-Monitor*, "Gazans scavenge for food, recyclables", 13 May 2015.

[69] United Nations Conference on Trade and Development, *The 2013 World Trade Organization Agreement on Trade Facilitation: Israel's Obligations towards Palestinian Trade*, 2015, pp. 7-10.

[70] Gisha, "COGAT decision to restrict entrance of wood to Gaza" (13 April 2015).

[71] Israel, Ministry of Defense, instructions regarding the ban on bringing items into the Gaza Strip, 3 August 2015. See also http://gaza.ochaopt.org/2015/09/import-restrictions-impede-delivery-of-services-and-humanitarian-assistance.

[72] Gisha, "Marketing of furniture from Gaza in Israel permitted–, wood to make the furniture is not", 2 November 2015.

[73] See www.btselem.org/workers.

[74] World Bank, *Economic Monitoring Report*, p. 4.

[75] Ibid.

introduced in the early 1990s.[76] A further 25,957 permits were issued for work in settlements.[77]

68. Permits to enter and work in Israel can be suddenly and arbitrarily revoked. For example, in June 2015, Israeli authorities cancelled all entry permits to Israel for Palestinians from the West Bank village of Sa'ir, apparently in an act of collective punishment after a Palestinian man from the village attacked a border police officer in East Jerusalem.[78]

69. While restricting Palestinian workers' access to work in Israel is not in and of itself a violation of international standards, such restrictions must be viewed in the overall context of the occupation and the violations of international human rights and humanitarian law accompanying it. Disproportionate Israeli restrictions on movement and trade have significantly contributed to the grave economic hardship in the West Bank and Gaza, which has interfered with access to livelihoods and work in the Occupied Palestinian Territory.

4. Right to family life

70. Restrictions on freedom of movement impede Palestinians' enjoyment of the right to family life and to protection of the family unit. According to a poll conducted by Gisha in 2013, almost a third of all Palestinians in Gaza had relatives in the West Bank, including East Jerusalem, or Israel.[79] Yet, under the current closure and permit regime, only those needing to visit a gravely ill, first-degree relative or to attend the wedding or the funeral of first-degree relatives may obtain approval to travel between Gaza and the West Bank. Even when narrow permit criteria are satisfied, approval remains uncertain owing to quotas and lengthy procedures.[80]

71. While it is difficult to obtain approval for family-related visits to the West Bank, permission for family reunification is nearly impossible. Relocation to the West Bank is limited to applicants satisfying one of three narrowly defined categories: minors under the age of 16 who have lost a parent in Gaza, elderly people in need of nursing care who have no first-degree relative to care for them and chronically ill patients. Being married to someone from the West Bank or having children living there is not considered sufficient to allow relocation.[81]

72. Restrictions on movement also prevent Palestinians who are from the West Bank or Gaza and who are married to Israeli or East Jerusalem residents from realizing their right to family life. In June 2015, the Knesset extended for another year the Citizenship and Entry into Israel Law, issued as a temporary order in 2003.[82] The law prohibits Palestinians from the West Bank and Gaza from obtaining permanent or temporary resident status in East Jerusalem or Israel, even when they are married to citizens or residents of Israel.[83] In few

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[76] COGAT, "Status of permits", p. 21.

[77] International Labour Office, *The Situation of Workers of the Occupied Arab Territories*, May 2015, para. 36.

[78] Natasha Roth, "Israel responds to lone attacks with collective punishment", *+972 Magazine*, 22 June 2015.

[79] Gisha, "Survey: 31 per cent of Gaza residents have relatives in Israel, East Jerusalem, West Bank" (19 December 2013).

[80] Gisha, "Distant relatives", July 2015. See http://features.gisha.org/distant_relatives.

[81] B'Tselem and HaMoked, *So Near and Yet So Far: Implications of Israeli-imposed Seclusion of Gaza Strip on Palestinians' Right to Family Life*, January 2014, pp. 12-15.

[82] HaMoked, "With no end in sight: for the sixteenth time, the Knesset has approved the prolongation of the Citizenship and Entry into Israel Law", 15 June 2015.

[83] HaMoked, *Temporary Order?: Life in East Jerusalem under the Shadow of the Citizenship and Entry*

cases, West Bank ID-holders have been granted permission to reside in Israel pursuant to renewable Israeli stay permits valid for one year at a time[84] — while family reunification with individuals from Gaza is completely prohibited pursuant to a 2008 Israeli military order.[85] Thus, the only option available for mixed families is to live in Gaza while maintaining ties to relatives in Israel — an option that Israel has facilitated since 1995 under the "split-family procedure". On 23 July 2015, following the disappearance of two Israelis who had entered Gaza without coordination or a permit, a decision was made to freeze the travel of Israelis and East Jerusalem residents to Gaza until further notice.[86] The ban creates an impossible situation for hundreds of split families living between Gaza and Israel.

73. The almost-total denial by Israel of family reunification for Palestinian or Palestinian-Israeli families and the lack of consideration for individual circumstances violate the right to family life and the prohibition of discrimination, since it makes an arbitrary distinction between mixed families involving Palestinians and other foreign nationals and carries undertones of ethnic prejudice.[87]

D. Impact of Palestinian disunity on human rights, including freedom of movement

74. Notwithstanding the obstacles imposed by the Israeli occupation, including movement restrictions, Palestinian duty bearers have, to the greatest extent possible, an obligation to respect, protect and fulfil the human rights of all people under their authority. This obligation has been underscored by the recent accession by the State of Palestine to seven international human rights treaties. It follows that the Government of the State of Palestine has both positive obligations to protect human rights in the Occupied Palestinian Territory and a duty to seek to mitigate the negative impact of the Israeli occupation to the extent that it can.[88]

75. In this context, the Secretary-General is particularly concerned about the negative impact of the eight-year intra-Palestinian political division between Hamas and Fatah. Palestinian disunity exacerbates the fragmentation of Palestinian territorial integrity in a way that is similar to the effect of Israeli restrictions on free movement, and thereby contributes to undermining a broad range of human rights (see A/HRC/28/45, para. 59).

76. OHCHR has received reports that the Ministry of the Interior of the State of Palestine, following instructions from the General Intelligence Service, has halted the

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into Israel Law, September 2014.

[84] Pursuant to the 2005 amendment to the Citizenship and Entry into Israel Law, applicants must satisfy minimum age requirements: 25 years for women, 35 years for men. Entry can be prevented if the applicant or anyone in his or her family is considered a security threat (HaMoked, *Temporary Order?*, pp. 21-24).

[85] HaMoked, *Temporary Order?*, p. 29.

[86] Letter addressed to the Minister of Defense of Israel, Moshe Ya'alon regarding the ban on entry into Gaza by Israelis, 4 August 2015. Available from http://gisha.org/UserFiles/File/letters/letter_to_yaalon_COGAT_Israelis_11.8.15-eng.pdf.

[87] See CERD/C/ISR/CO/14-16, para. 18. See also CCPR/C/ISR/CO/3, para.15; CEDAW/C/ISR/CO/5, para. 25; and CRC/C/ISR/CO/2-4, para. 49. In 2012, in a Supreme Court ruling concluding that Israeli national security prevails over the right to family life, the then Chief Justice of Israel said: "human rights cannot be enacted at the price of national suicide". See https://www.opensocietyfoundations.org/litigation/adalah-v-israel.

[88] See, for example, Human Rights Committee general comment No. 31 (2004) on the nature of the legal obligation imposed on States parties to the Covenant, para. 2.

issuance and renewal of passports of Palestinians alleged to be affiliated with Hamas.[89] During the reporting period, the Palestinian Independent Commission for Human Rights received four complaints from Palestinians from Gaza whose passport applications were reportedly denied.

77. Also of concern are reports received during the reporting period that Gazan security services have banned Gaza residents from leaving through Erez without judicial orders. According to the Independent Commission for Human Rights, on three occasions members of the Fatah Central Committee and the Fatah Revolutionary Council were denied permission to travel outside of Gaza. On 28 December 2014, the Gazan authorities at the checkpoint reportedly prevented 37 children between 5 and 12 years of age, orphaned as a result of the 2014 escalation of hostilities, and five adult chaperones from exiting Gaza to visit Israel and the West Bank.[90] The authorities claimed that the children were denied travel to protect their culture and safeguard them from the normalization of ties with Israel.[91]

78. Palestinian political divisions have also had a broader negative impact on Palestinians' enjoyment of their civil and political rights. Among the acts of concern monitored by OHCHR during the reporting period are the excessive use of force, the arbitrary arrest and detention of political activists, the use of torture and other ill-treatment and restrictions on freedom of expression (A/HRC/31/40).

79. Political divisions further hinder the realization of economic, social and cultural rights. The continued non-payment of civil servants recruited by the authorities in Gaza is particularly problematic. At least 40,000 civil servants and security personnel have not received a salary, only occasional humanitarian payments, since April 2014.[92]

80. This has, in turn, negatively affected access to education, health and social welfare, among other aspects. In Gaza, the health sector recorded an absenteeism rate of approximately 50 per cent in January 2015, especially as staff could not afford transportation costs.[93] In December 2014, 750 cleaning personnel at the Ministry of Health in Gaza went on a 16-day strike because they had not been paid for six months. Consequently, cleaning services for 13 hospitals and 56 health centres were halted, and the Ministry of Health suspended some medical services, including obstetric and gynaecological services.[94]

IV. Recommendations

A. Recommendations to the Government of Israel

81. **Under international human rights and humanitarian law, the Israeli authorities have the obligation to facilitate the free movement of Palestinians within the Occupied Palestinian Territory, including East Jerusalem. Any exception must comply with international law, which means that restrictions are justified only for imperative reasons of security and only in response to a specific security threat. Israel should lift**

[89] See afa.ps/post/146208 (Arabic).
[90] Gisha, "Thirty-seven students travelled abroad".
[91] See http://alray.ps/ar/index.php?act=post&id=130062 (Arabic).
[92] Office for the Coordination of Humanitarian Affairs, "The monthly humanitarian bulletin" , January 2015, p. 1.
[93] Ibid., pp. 4-5.
[94] Ibid.

the blockade on Gaza in accordance with international human rights law and Security Council resolution 1860 (2009), and allow movement between Gaza and the West Bank. Israel should also remove physical restrictions on free movement throughout the West Bank, including East Jerusalem, and ensure that all relevant administrative rules and requirements are consistent with international human rights and humanitarian law.

82. **The right to education must be respected and protected, including by facilitating free, safe and unhindered access to schools. The blanket ban on students from Gaza to access education in the West Bank must be lifted.**

83. **Steps should be taken immediately to remove barriers to freedom of movement that prevent medical personnel from carrying out their duties. All unnecessary or disproportionate barriers hampering Palestinians' access to medical treatment must be lifted without delay, including in Israel and East Jerusalem.**

84. **Steps must be taken to ease the restrictions on economic development in the Occupied Palestinian Territory, including by immediately allowing greater freedom of movement of goods and people, and lifting restrictions that prevent Palestinians from accessing land and developing their economy.**

85. **Israeli authorities must recognize and respect the residency rights of Palestinians, including by immediately halting the practice of revoking residence permits, ending the freeze on changes to addresses, removing any quotas on family reunification requests, and processing backlogged requests and new requests expeditiously.**

B. Recommendations to the Palestinian authorities

86. **The Palestinian authorities must implement their obligations under international human rights treaties, including with regard to freedom of movement.**

87. **The Palestinian authorities should take steps to encourage national political parties to resolve the political disunity that obstructs the equal implementation of the human rights obligations of the Government of the State of Palestine throughout the Occupied Palestinian Territory.**